

SENATE BILL No. 149

By Committee on Commerce

2-6

1 AN ACT concerning drug screening; relating to recipients of cash
2 assistance and unemployment benefits; amending K.S.A. 2012 Supp.
3 39-709e and 44-706 and repealing the existing sections.
4

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

6 Section 1. K.S.A. 2012 Supp. 39-709 is hereby amended to read as
7 follows: 39-709. (a) *General eligibility requirements for assistance for*
8 *which federal moneys are expended.* Subject to the additional requirements
9 below, assistance in accordance with plans under which federal moneys
10 are expended may be granted to any needy person who:

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

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

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

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

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

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

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

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

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

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

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

1 six calendar months.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 from claims under this subsection (g) shall be deposited in the social
2 welfare fund. The secretary may adopt rules and regulations for the
3 implementation and administration of the medical assistance recovery
4 program under this subsection (g).

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

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

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

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

1 facility and resides in the home on which the lien has been placed for a
2 period of at least 90 days without being readmitted as an inpatient to a
3 nursing or medical facility. The amount of the lien shall be for the amount
4 of assistance paid by the department of social and rehabilitation services
5 after the expiration of six months from the date the recipient became
6 eligible for compensated inpatient care at a nursing home, nursing homes
7 or other medical institution until the time of the filing of the lien and for
8 any amount paid thereafter for such medical assistance to the recipient.

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

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

16 (B) when there is no child of the recipient, natural or adopted, who is
17 20 years of age or less residing in the home;

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

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

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

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

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

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

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

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

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

33 (i) No person who voluntarily quits employment or who is fired from
34 employment due to gross misconduct as defined by rules and regulations
35 of the secretary or who is a fugitive from justice by reason of a felony
36 conviction or charge shall be eligible to receive public assistance benefits
37 in this state. Any recipient of public assistance who fails to timely comply
38 with monthly reporting requirements under criteria and guidelines
39 prescribed by rules and regulations of the secretary shall be subject to a
40 penalty established by the secretary by rules and regulations.

41 (j) If the applicant or recipient of aid to families with dependent
42 children is a mother of the dependent child, as a condition of the mother's
43 eligibility for aid to families with dependent children the mother shall

1 identify by name and, if known, by current address the father of the
2 dependent child except that the secretary may adopt by rules and
3 regulations exceptions to this requirement in cases of undue hardship. Any
4 recipient of aid to families with dependent children who fails to cooperate
5 with requirements relating to child support enforcement under criteria and
6 guidelines prescribed by rules and regulations of the secretary shall be
7 subject to a penalty established by the secretary by rules and regulations
8 which penalty shall progress to ineligibility for the family after three
9 months of noncooperation.

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

32 (l) (1) *A program of drug screening for applicants for cash assistance*
33 *as a condition of eligibility for cash assistance and persons receiving cash*
34 *assistance as a condition of continued receipt of cash assistance shall be*
35 *established, subject to applicable federal law, by the secretary for children*
36 *and families on or before January 1, 2014. Under such program of drug*
37 *screening, the secretary for children and families shall order a drug*
38 *screening of an applicant for or a recipient of cash assistance at any time*
39 *when reasonable suspicion exists that such applicant for or recipient of*
40 *cash assistance is using a controlled substance or controlled substance*
41 *analog. The secretary for children and families may use any information*
42 *obtained by the secretary for children and families to determine whether*
43 *such reasonable suspicion exists, including, but not limited to, an*

1 applicant's or recipient's demeanor, missed appointments and arrest or
2 other police records, previous employment or application for employment
3 in an occupation or industry that regularly conducts drug screening,
4 termination from previous employment due to use of a controlled
5 substance or controlled substance analog or prior drug screening records
6 of the applicant or recipient indicating use of a controlled substance or
7 controlled substance analog.

8 (2) Any applicant for or recipient of cash assistance whose drug
9 screening results in a positive test may request that the drug screening
10 specimen be sent to a different drug testing facility for an additional drug
11 screening. Any applicant for or recipient of cash assistance who requests
12 an additional drug screening at a different drug testing facility shall be
13 required to pay the cost of drug screening. Such applicant or recipient who
14 took the additional drug screening and who tested negative for use of a
15 controlled substance and controlled substance analog shall be reimbursed
16 for the cost of such additional drug screening.

17 (3) Any applicant for or recipient of cash assistance who tests
18 positive for use of a controlled substance or controlled substance analog
19 shall be required to complete a substance abuse treatment program
20 approved by the secretary for children and families, secretary of labor or
21 secretary of commerce, and a job skills program approved by the secretary
22 for children and families, secretary of labor or secretary of commerce.
23 Subject to applicable federal laws, any applicant for or recipient of cash
24 assistance who fails to complete or refuses to participate in the substance
25 abuse treatment program or job skills program as required under this
26 subsection shall be ineligible to receive cash assistance until completion
27 of such substance abuse treatment and job skills programs. Upon
28 completion of both substance abuse treatment and job skills programs,
29 such applicant for or recipient of cash assistance may be subject to
30 periodic drug screening, as determined by the secretary for children and
31 families. Upon a second positive test for use of a controlled substance or
32 controlled substance analog, a recipient of cash assistance shall be
33 ordered to complete again a substance abuse treatment program and job
34 skills program, and shall be terminated from cash assistance for a period
35 of 12 months, or until such recipient of cash assistance completes both
36 substance abuse treatment and job skills programs, whichever is later.
37 Upon a third positive test for use of a controlled substance or controlled
38 substance analog, a recipient of cash assistance shall be terminated from
39 cash assistance, subject to applicable federal law.

40 (4) If an applicant for or recipient of cash assistance is ineligible for
41 or terminated from cash assistance as a result of a positive test for use of a
42 controlled substance or controlled substance analog, and such applicant
43 for or recipient of cash assistance is the parent or legal guardian of a

1 *minor child eligible for cash assistance, an appropriate protective payee*
2 *shall be designated to receive cash assistance on behalf of such child.*
3 *Such parent or legal guardian of the minor child may choose to designate*
4 *an individual to receive cash assistance for such parent's or legal*
5 *guardian's minor child, as approved by the secretary for children and*
6 *families. Prior to the designated individual receiving any cash assistance,*
7 *the secretary for children and families shall order a drug screening of the*
8 *designated individual.*

9 *(A) In addition, any individual designated to receive cash assistance*
10 *on behalf of an eligible minor child shall be subject to drug screening at*
11 *any time when reasonable suspicion exists that such designated individual*
12 *is using a controlled substance or controlled substance analog. The*
13 *secretary for children and families may use any information obtained by*
14 *the secretary for children and families to determine whether such*
15 *reasonable suspicion exists, including, but not limited to, the designated*
16 *individual's demeanor, missed appointments and arrest or other police*
17 *records, previous employment or application for employment in an*
18 *occupation or industry that regularly conducts drug screening,*
19 *termination from previous employment due to use of a controlled*
20 *substance or controlled substance analog or prior drug screening records*
21 *of the designated individual indicating use of a controlled substance or*
22 *controlled substance analog.*

23 *(B) Any designated individual whose drug screening results in a*
24 *positive test may request that the drug screening specimen be sent to a*
25 *different drug testing facility for an additional drug screening. Any*
26 *designated individual who requests an additional drug screening at a*
27 *different drug testing facility shall be required to pay the cost of drug*
28 *screening. Such designated individual who took the additional drug*
29 *screening and who tested negative for use of a controlled substance and*
30 *controlled substance analog shall be reimbursed for the cost of such*
31 *additional drug screening.*

32 *(C) Upon any positive test for use of a controlled substance or*
33 *controlled substance analog, the designated individual shall not receive*
34 *cash assistance on behalf of the parent's or legal guardian's minor child,*
35 *and another designated individual shall be selected by the secretary for*
36 *children and families to receive cash assistance on behalf of such parent's*
37 *or legal guardian's minor child.*

38 *(5) If a person has been convicted under federal or state law of any*
39 *offense which is classified as a felony by the law of the jurisdiction and*
40 *which has as an element of such offense the manufacture, cultivation,*
41 *distribution, possession or use of a controlled substance or controlled*
42 *substance analog, and the date of conviction is on or after July 1, 2013,*
43 *such person shall thereby become forever ineligible to receive any cash*

1 assistance under this subsection unless such conviction is the person's first
2 conviction. First-time offenders convicted under federal or state law of
3 any offense which is classified as a felony by the law of the jurisdiction
4 and which has as an element of such offense the manufacture, cultivation,
5 distribution, possession or use of a controlled substance or controlled
6 substance analog, and the date of conviction is on or after July 1, 2013,
7 such person shall become ineligible to receive cash assistance for five
8 years from the date of conviction.

9 (6) Except for hearings before the Kansas department for children
10 and families or criminal prosecutions, the results of any drug screening
11 administered as part of the drug screening program authorized by this
12 subsection shall be confidential and shall not be disclosed publicly.

13 (7) The secretary for children and families may adopt such rules and
14 regulations as are necessary to carry out the provisions of this subsection.

15 (8) Any authority granted to the secretary for children and families
16 under this subsection shall be in addition to any other penalties prescribed
17 by law.

18 (9) As used in this subsection:

19 (A) "Cash assistance" means cash assistance provided to individuals
20 under the provisions of article 7 of chapter 39 of the Kansas Statutes
21 Annotated, and amendments thereto, and any rules and regulations
22 adopted pursuant to such statutes.

23 (B) "Controlled substance" means the same as in K.S.A. 2012 Supp.
24 21-5701, and amendments thereto, and 21 U.S.C. § 802.

25 (C) "Controlled substance analog" means the same as in K.S.A. 2012
26 Supp. 21-5701, and amendments thereto.

27 Sec. 2. K.S.A. 2012 Supp. 39-709e is hereby amended to read as
28 follows: 39-709e. (a) Except as provided in section 1, and amendments
29 thereto, under the authority of subsection (d)(1)(A) of 21 U.S.C. § 862a,
30 the state of Kansas hereby exercises its option out of subsection (a) of 21
31 U.S.C. § 862a, which makes any individual ineligible for certain state and
32 federal assistance if that individual has been convicted under federal or
33 state law of any offense which is classified as a felony by the law of the
34 jurisdiction and which has as an element of such offense the possession,
35 use or distribution of a controlled substance as defined by subsection (6) of
36 21 U.S.C. § 802, only if, after such conviction, such individual has:

37 (1) Been assessed by a licensed substance abuse treatment provider as
38 not requiring substance abuse treatment; or

39 (2) been assessed by a licensed substance abuse treatment provider
40 and such provider recommended substance abuse treatment and such
41 individual:

42 (A) Is participating in a licensed substance abuse treatment program;
43 or

1 (B) has successfully completed a licensed substance abuse treatment
2 program.

3 (b) An individual shall be disqualified for any state or federal
4 assistance permitted by this section if confirmation of illegal drug use is
5 found as a result of testing that occurs while the individual is on probation,
6 parole, conditional release or postrelease supervision or during required
7 substance abuse treatment. Thereafter, such disqualified individual may
8 reapply for assistance after 30 days.

9 New Sec. 3. (a) Each employer shall submit a report to the secretary
10 containing:

11 (1) The name and address of each employee who has been discharged
12 by reason of misconduct as such term is defined in K.S.A. 44-706(b)(2),
13 and amendments thereto; or

14 (2) the name and address of each job applicant who has refused
15 employment by reason of misconduct as such term is defined in K.S.A. 44-
16 706(b)(2), and amendments thereto; and

17 (3) such other information which may be required by the secretary.

18 (b) The report required by subsection (a) shall be submitted on a form
19 prescribed by the secretary. Such report shall be submitted in a manner
20 prescribed by the secretary.

21 (c) The secretary may adopt rules and regulations as are necessary to
22 carry out the provisions of this section.

23 (d) The secretary may use any report received pursuant to this section
24 to determine eligibility for unemployment benefits.

25 (e) This section shall be a part of and supplemental to the
26 employment security law.

27 Sec. 4. K.S.A. 2012 Supp. 44-706 is hereby amended to read as
28 follows: 44-706. An individual shall be disqualified for benefits:

29 (a) If the individual left work voluntarily without good cause
30 attributable to the work or the employer, subject to the other provisions of
31 this subsection. Failure to return to work after expiration of approved
32 personal or medical leave, or both, shall be considered a voluntary
33 resignation. After a temporary job assignment, failure of an individual to
34 affirmatively request an additional assignment on the next succeeding
35 workday, if required by the employment agreement, after completion of a
36 given work assignment, shall constitute leaving work voluntarily. The
37 disqualification shall begin the day following the separation and shall
38 continue until after the individual has become reemployed and has had
39 earnings from insured work of at least three times the individual's weekly
40 benefit amount. An individual shall not be disqualified under this
41 subsection if:

42 (1) The individual was forced to leave work because of illness or
43 injury upon the advice of a licensed and practicing health care provider

1 and, upon learning of the necessity for absence, immediately notified the
2 employer thereof, or the employer consented to the absence, and after
3 recovery from the illness or injury, when recovery was certified by a
4 practicing health care provider, the individual returned to the employer and
5 offered to perform services and the individual's regular work or
6 comparable and suitable work was not available. As used in this paragraph
7 "health care provider" means any person licensed by the proper licensing
8 authority of any state to engage in the practice of medicine and surgery,
9 osteopathy, chiropractic, dentistry, optometry, podiatry or psychology;

10 (2) the individual left temporary work to return to the regular
11 employer;

12 (3) the individual left work to enlist in the armed forces of the United
13 States, but was rejected or delayed from entry;

14 (4) the spouse of an individual who is a member of the armed forces
15 of the United States who left work because of the voluntary or involuntary
16 transfer of the individual's spouse from one job to another job, which is for
17 the same employer or for a different employer, at a geographic location
18 which makes it unreasonable for the individual to continue work at the
19 individual's job. For the purposes of this provision the term "armed forces"
20 means active duty in the army, navy, marine corps, air force, coast guard or
21 any branch of the military reserves of the United States;

22 (5) the individual left work because of hazardous working conditions;
23 in determining whether or not working conditions are hazardous for an
24 individual, the degree of risk involved to the individual's health, safety and
25 morals, the individual's physical fitness and prior training and the working
26 conditions of workers engaged in the same or similar work for the same
27 and other employers in the locality shall be considered; as used in this
28 paragraph, "hazardous working conditions" means working conditions that
29 could result in a danger to the physical or mental well-being of the
30 individual; each determination as to whether hazardous working
31 conditions exist shall include, but shall not be limited to, a consideration of
32 (A) the safety measures used or the lack thereof, and (B) the condition of
33 equipment or lack of proper equipment; no work shall be considered
34 hazardous if the working conditions surrounding the individual's work are
35 the same or substantially the same as the working conditions generally
36 prevailing among individuals performing the same or similar work for
37 other employers engaged in the same or similar type of activity;

38 (6) the individual left work to enter training approved under section
39 236(a)(1) of the federal trade act of 1974, provided the work left is not of a
40 substantially equal or higher skill level than the individual's past adversely
41 affected employment (as defined for purposes of the federal trade act of
42 1974), and wages for such work are not less than 80% of the individual's
43 average weekly wage as determined for the purposes of the federal trade

1 act of 1974;

2 (7) the individual left work because of unwelcome harassment of the
3 individual by the employer or another employee of which the employing
4 unit had knowledge;

5 (8) the individual left work to accept better work; each determination
6 as to whether or not the work accepted is better work shall include, but
7 shall not be limited to, consideration of (A) the rate of pay, the hours of
8 work and the probable permanency of the work left as compared to the
9 work accepted, (B) the cost to the individual of getting to the work left in
10 comparison to the cost of getting to the work accepted, and (C) the
11 distance from the individual's place of residence to the work accepted in
12 comparison to the distance from the individual's residence to the work left;

13 (9) the individual left work as a result of being instructed or requested
14 by the employer, a supervisor or a fellow employee to perform a service or
15 commit an act in the scope of official job duties which is in violation of an
16 ordinance or statute;

17 (10) the individual left work because of a violation of the work
18 agreement by the employing unit and, before the individual left, the
19 individual had exhausted all remedies provided in such agreement for the
20 settlement of disputes before terminating;

21 (11) after making reasonable efforts to preserve the work, the
22 individual left work due to a personal emergency of such nature and
23 compelling urgency that it would be contrary to good conscience to
24 impose a disqualification; or

25 (12) (A) the individual left work due to circumstances resulting from
26 domestic violence, including:

27 (i) The individual's reasonable fear of future domestic violence at or
28 en route to or from the individual's place of employment; ~~or~~

29 (ii) the individual's need to relocate to another geographic area in
30 order to avoid future domestic violence; ~~or~~

31 (iii) the individual's need to address the physical, psychological and
32 legal impacts of domestic violence; ~~or~~

33 (iv) the individual's need to leave employment as a condition of
34 receiving services or shelter from an agency which provides support
35 services or shelter to victims of domestic violence; or

36 (v) the individual's reasonable belief that termination of employment
37 is necessary to avoid other situations which may cause domestic violence
38 and to provide for the future safety of the individual or the individual's
39 family.

40 (B) An individual may prove the existence of domestic violence by
41 providing one of the following:

42 (i) A restraining order or other documentation of equitable relief by a
43 court of competent jurisdiction; ~~or~~

- 1 (ii) a police record documenting the abuse; ~~or~~
2 (iii) documentation that the abuser has been convicted of one or more
3 of the offenses enumerated in articles 34 and 35 of chapter 21 of the
4 Kansas Statutes Annotated, prior to their repeal, or articles 54 or 55 of
5 chapter 21 of the Kansas Statutes Annotated, or K.S.A. 2012 Supp. 21-
6 6104, 21-6325, 21-6326 or 21-6418 through 21-6421, and amendments
7 thereto, where the victim was a family or household member; ~~or~~
8 (iv) medical documentation of the abuse; ~~or~~
9 (v) a statement provided by a counselor, social worker, health care
10 provider, clergy, shelter worker, legal advocate, domestic violence or
11 sexual assault advocate or other professional who has assisted the
12 individual in dealing with the effects of abuse on the individual or the
13 individual's family; or
14 (vi) a sworn statement from the individual attesting to the abuse.

15 (C) No evidence of domestic violence experienced by an individual,
16 including the individual's statement and corroborating evidence, shall be
17 disclosed by the department of labor unless consent for disclosure is given
18 by the individual.

19 (b) If the individual has been discharged for misconduct connected
20 with the individual's work. The disqualification shall begin the day
21 following the separation and shall continue until after the individual
22 becomes reemployed and has had earnings from insured work of at least
23 three times the individual's determined weekly benefit amount, except that
24 if an individual is discharged for gross misconduct connected with the
25 individual's work, such individual shall be disqualified for benefits until
26 such individual again becomes employed and has had earnings from
27 insured work of at least eight times such individual's determined weekly
28 benefit amount. In addition, all wage credits attributable to the
29 employment from which the individual was discharged for gross
30 misconduct connected with the individual's work shall be canceled. No
31 such cancellation of wage credits shall affect prior payments made as a
32 result of a prior separation.

33 (1) For the purposes of this subsection, "misconduct" is defined as a
34 violation of a duty or obligation reasonably owed the employer as a
35 condition of employment. The term "gross misconduct" as used in this
36 subsection shall be construed to mean conduct evincing extreme, willful or
37 wanton misconduct as defined by this subsection. Failure of the employee
38 to notify the employer of an absence shall be considered prima facie
39 evidence of a violation of a duty or obligation reasonably owed the
40 employer as a condition of employment.

41 (2) For the purposes of this subsection, the use of or impairment
42 caused by alcoholic liquor, a cereal malt beverage or a nonprescribed
43 controlled substance by an individual while working shall be conclusive

1 evidence of misconduct and the possession of alcoholic liquor, a cereal
2 malt beverage or a nonprescribed controlled substance by an individual
3 while working shall be prima facie evidence of conduct which is a
4 violation of a duty or obligation reasonably owed to the employer as a
5 condition of employment. Alcoholic liquor shall be defined as provided in
6 K.S.A. 41-102, and amendments thereto. Cereal malt beverage shall be
7 defined as provided in K.S.A. 41-2701, and amendments thereto.
8 Controlled substance shall be defined as provided in K.S.A. 2012 Supp.
9 21-5701, and amendments thereto. As used in this paragraph, "required by
10 law" means required by a federal or state law, a federal or state rule or
11 regulation having the force and effect of law, a county resolution or
12 municipal ordinance, or a policy relating to public safety adopted in open
13 meeting by the governing body of any special district or other local
14 governmental entity. Chemical test shall include, but is not limited to, tests
15 of urine, blood or saliva. A positive chemical test shall mean a chemical
16 result showing a concentration at or above the levels listed in K.S.A. 44-
17 501, and amendments thereto, for the drugs or abuse listed therein. A
18 positive breath test shall mean a test result showing an alcohol
19 concentration of .04 or greater. Alcohol concentration means the number
20 of grams of alcohol per 210 liters of breath. An individual's refusal to
21 submit to a chemical test or breath alcohol test shall be conclusive
22 evidence of misconduct if the test meets the standards of the drug free
23 workplace act, 41 U.S.C. § 701 et seq.; the test was administered as part of
24 an employee assistance program or other drug or alcohol treatment
25 program in which the employee was participating voluntarily or as a
26 condition of further employment; the test was otherwise required by law
27 and the test constituted a required condition of employment for the
28 individual's job; the test was requested pursuant to a written policy of the
29 employer of which the employee had knowledge and was a required
30 condition of employment; or there was probable cause to believe that the
31 individual used, possessed or was impaired by alcoholic liquor, a cereal
32 malt beverage or a controlled substance while working. A positive breath
33 alcohol test or a positive chemical test shall be conclusive evidence to
34 prove misconduct if the following conditions are met:

35 (A) Either (i) the test was required by law and was administered
36 pursuant to the drug free workplace act, 41 U.S.C. § 701 et seq., (ii) the
37 test was administered as part of an employee assistance program or other
38 drug or alcohol treatment program in which the employee was
39 participating voluntarily or as a condition of further employment, (iii) the
40 test was requested pursuant to a written policy of the employer of which
41 the employee had knowledge and was a required condition of employment,
42 (iv) the test was required by law and the test constituted a required
43 condition of employment for the individual's job, or (v) there was probable

1 cause to believe that the individual used, had possession of, or was
2 impaired by alcoholic liquor, the cereal malt beverage or the controlled
3 substance while working;

4 (B) the test sample was collected either (i) as prescribed by the drug
5 free workplace act, 41 U.S.C. § 701 et seq., (ii) as prescribed by an
6 employee assistance program or other drug or alcohol treatment program
7 in which the employee was participating voluntarily or as a condition of
8 further employment, (iii) as prescribed by the written policy of the
9 employer of which the employee had knowledge and which constituted a
10 required condition of employment, (iv) as prescribed by a test which was
11 required by law and which constituted a required condition of employment
12 for the individual's job, or (v) at a time contemporaneous with the events
13 establishing probable cause;

14 (C) the collecting and labeling of a chemical test sample was
15 performed by a licensed health care professional or any other individual
16 certified pursuant to paragraph (b)(2)(F) or authorized to collect or label
17 test samples by federal or state law, or a federal or state rule or regulation
18 having the force or effect of law, including law enforcement personnel;

19 (D) the chemical test was performed by a laboratory approved by the
20 United States department of health and human services or licensed by the
21 department of health and environment, except that a blood sample may be
22 tested for alcohol content by a laboratory commonly used for that purpose
23 by state law enforcement agencies;

24 (E) the chemical test was confirmed by gas chromatography, gas
25 chromatography-mass spectroscopy or other comparably reliable
26 analytical method, except that no such confirmation is required for a blood
27 alcohol sample or a breath alcohol test;

28 (F) the breath alcohol test was administered by an individual trained
29 to perform breath tests, the breath testing instrument used was certified
30 and operated strictly according to description provided by the
31 manufacturers and the reliability of the instrument performance was
32 assured by testing with alcohol standards; and

33 (G) the foundation evidence must establish, beyond a reasonable
34 doubt, that the test results were from the sample taken from the individual.

35 (3) (A) For the purposes of this subsection, misconduct shall include,
36 but not be limited to, repeated absence, including incarceration, resulting
37 in absence from work of three days or longer, excluding Saturdays,
38 Sundays and legal holidays, and lateness, from scheduled work if the facts
39 show:

40 (i) The individual was absent without good cause;

41 (ii) the absence was in violation of the employer's written
42 absenteeism policy;

43 (iii) the employer gave or sent written notice to the individual, at the

1 individual's last known address, that future absence may or will result in
2 discharge; and

3 (iv) the employee had knowledge of the employer's written
4 absenteeism policy.

5 (B) For the purposes of this subsection, if an employee disputes being
6 absent without good cause, the employee shall present evidence that a
7 majority of the employee's absences were for good cause. If the employee
8 alleges that the employee's repeated absences were the result of health
9 related issues, such evidence shall include documentation from a licensed
10 and practicing health care provider as defined in subsection (a)(1).

11 (4) An individual shall not be disqualified under this subsection if the
12 individual is discharged under the following circumstances:

13 (A) The employer discharged the individual after learning the
14 individual was seeking other work or when the individual gave notice of
15 future intent to quit;

16 (B) the individual was making a good-faith effort to do the assigned
17 work but was discharged due to: (i) Inefficiency;; (ii) unsatisfactory
18 performance due to inability, incapacity or lack of training or experience;;
19 (iii) isolated instances of ordinary negligence or inadvertence;; (iv) good-
20 faith errors in judgment or discretion;; or (v) unsatisfactory work or
21 conduct due to circumstances beyond the individual's control; or

22 (C) the individual's refusal to perform work in excess of the contract
23 of hire.

24 (c) If the individual has failed, without good cause, to either apply for
25 suitable work when so directed by the employment office of the secretary
26 of labor, or to accept suitable work when offered to the individual by the
27 employment office, the secretary of labor, or an employer, such
28 disqualification shall begin with the week in which such failure occurred
29 and shall continue until the individual becomes reemployed and has had
30 earnings from insured work of at least three times such individual's
31 determined weekly benefit amount. In determining whether or not any
32 work is suitable for an individual, the secretary of labor, or a person or
33 persons designated by the secretary, shall consider the degree of risk
34 involved to health, safety and morals, physical fitness and prior training,
35 experience and prior earnings, length of unemployment and prospects for
36 securing local work in the individual's customary occupation or work for
37 which the individual is reasonably fitted by training or experience, and the
38 distance of the available work from the individual's residence.
39 Notwithstanding any other provisions of this act, an otherwise eligible
40 individual shall not be disqualified for refusing an offer of suitable
41 employment, or failing to apply for suitable employment when notified by
42 an employment office, or for leaving the individual's most recent work
43 accepted during approved training, including training approved under

1 section 236(a)(1) of the trade act of 1974, if the acceptance of or applying
2 for suitable employment or continuing such work would require the
3 individual to terminate approved training and no work shall be deemed
4 suitable and benefits shall not be denied under this act to any otherwise
5 eligible individual for refusing to accept new work under any of the
6 following conditions: (1) If the position offered is vacant due directly to a
7 strike, lockout or other labor dispute; (2) if the remuneration, hours or
8 other conditions of the work offered are substantially less favorable to the
9 individual than those prevailing for similar work in the locality; (3) if as a
10 condition of being employed, the individual would be required to join or to
11 resign from or refrain from joining any labor organization; and (4) if the
12 individual left employment as a result of domestic violence, and the
13 position offered does not reasonably accommodate the individual's
14 physical, psychological, safety, and/or legal needs relating to such
15 domestic violence.

16 (d) For any week with respect to which the secretary of labor, or a
17 person or persons designated by the secretary, finds that the individual's
18 unemployment is due to a stoppage of work which exists because of a
19 labor dispute or there would have been a work stoppage had normal
20 operations not been maintained with other personnel previously and
21 currently employed by the same employer at the factory, establishment or
22 other premises at which the individual is or was last employed, except that
23 this subsection (d) shall not apply if it is shown to the satisfaction of the
24 secretary of labor, or a person or persons designated by the secretary, that:
25 (1) The individual is not participating in or financing or directly interested
26 in the labor dispute which caused the stoppage of work; and (2) the
27 individual does not belong to a grade or class of workers of which,
28 immediately before the commencement of the stoppage, there were
29 members employed at the premises at which the stoppage occurs any of
30 whom are participating in or financing or directly interested in the dispute.
31 If in any case separate branches of work which are commonly conducted
32 as separate businesses in separate premises are conducted in separate
33 departments of the same premises, each such department shall, for the
34 purpose of this subsection be deemed to be a separate factory,
35 establishment or other premises. For the purposes of this subsection,
36 failure or refusal to cross a picket line or refusal for any reason during the
37 continuance of such labor dispute to accept the individual's available and
38 customary work at the factory, establishment or other premises where the
39 individual is or was last employed shall be considered as participation and
40 interest in the labor dispute.

41 (e) For any week with respect to which or a part of which the
42 individual has received or is seeking unemployment benefits under the
43 unemployment compensation law of any other state or of the United

1 States, except that if the appropriate agency of such other state or the
2 United States finally determines that the individual is not entitled to such
3 unemployment benefits, this disqualification shall not apply.

4 (f) For any week with respect to which the individual is entitled to
5 receive any unemployment allowance or compensation granted by the
6 United States under an act of congress to ex-service men and women in
7 recognition of former service with the military or naval services of the
8 United States.

9 (g) For the period of one year beginning with the first day following
10 the last week of unemployment for which the individual received benefits,
11 or for one year from the date the act was committed, whichever is the later,
12 if the individual, or another in such individual's behalf with the knowledge
13 of the individual, has knowingly made a false statement or representation,
14 or has knowingly failed to disclose a material fact to obtain or increase
15 benefits under this act or any other unemployment compensation law
16 administered by the secretary of labor.

17 (h) For any week with respect to which the individual is receiving
18 compensation for temporary total disability or permanent total disability
19 under the workmen's compensation law of any state or under a similar law
20 of the United States.

21 (i) For any week of unemployment on the basis of service in an
22 instructional, research or principal administrative capacity for an
23 educational institution as defined in subsection (v) of K.S.A. 44-703, and
24 amendments thereto, if such week begins during the period between two
25 successive academic years or terms or, when an agreement provides
26 instead for a similar period between two regular but not successive terms
27 during such period or during a period of paid sabbatical leave provided for
28 in the individual's contract, if the individual performs such services in the
29 first of such academic years or terms and there is a contract or a reasonable
30 assurance that such individual will perform services in any such capacity
31 for any educational institution in the second of such academic years or
32 terms.

33 (j) For any week of unemployment on the basis of service in any
34 capacity other than service in an instructional, research, or administrative
35 capacity in an educational institution, as defined in subsection (v) of
36 K.S.A. 44-703, and amendments thereto, if such week begins during the
37 period between two successive academic years or terms if the individual
38 performs such services in the first of such academic years or terms and
39 there is a reasonable assurance that the individual will perform such
40 services in the second of such academic years or terms, except that if
41 benefits are denied to the individual under this subsection and the
42 individual was not offered an opportunity to perform such services for the
43 educational institution for the second of such academic years or terms,

1 such individual shall be entitled to a retroactive payment of benefits for
2 each week for which the individual filed a timely claim for benefits and for
3 which benefits were denied solely by reason of this subsection.

4 (k) For any week of unemployment on the basis of service in any
5 capacity for an educational institution as defined in subsection (v) of
6 K.S.A. 44-703, and amendments thereto, if such week begins during an
7 established and customary vacation period or holiday recess, if the
8 individual performs services in the period immediately before such
9 vacation period or holiday recess and there is a reasonable assurance that
10 such individual will perform such services in the period immediately
11 following such vacation period or holiday recess.

12 (l) For any week of unemployment on the basis of any services,
13 substantially all of which consist of participating in sports or athletic
14 events or training or preparing to so participate, if such week begins during
15 the period between two successive sport seasons or similar period if such
16 individual performed services in the first of such seasons or similar periods
17 and there is a reasonable assurance that such individual will perform such
18 services in the later of such seasons or similar periods.

19 (m) For any week on the basis of services performed by an alien
20 unless such alien is an individual who was lawfully admitted for
21 permanent residence at the time such services were performed, was
22 lawfully present for purposes of performing such services, or was
23 permanently residing in the United States under color of law at the time
24 such services were performed, including an alien who was lawfully present
25 in the United States as a result of the application of the provisions of
26 section 212(d)(5) of the federal immigration and nationality act. Any data
27 or information required of individuals applying for benefits to determine
28 whether benefits are not payable to them because of their alien status shall
29 be uniformly required from all applicants for benefits. In the case of an
30 individual whose application for benefits would otherwise be approved, no
31 determination that benefits to such individual are not payable because of
32 such individual's alien status shall be made except upon a preponderance
33 of the evidence.

34 (n) For any week in which an individual is receiving a governmental
35 or other pension, retirement or retired pay, annuity or other similar
36 periodic payment under a plan maintained by a base period employer and
37 to which the entire contributions were provided by such employer, except
38 that: (1) If the entire contributions to such plan were provided by the base
39 period employer but such individual's weekly benefit amount exceeds such
40 governmental or other pension, retirement or retired pay, annuity or other
41 similar periodic payment attributable to such week, the weekly benefit
42 amount payable to the individual shall be reduced (but not below zero) by
43 an amount equal to the amount of such pension, retirement or retired pay,

1 annuity or other similar periodic payment which is attributable to such
2 week; ~~or~~ (2) if only a portion of contributions to such plan were provided
3 by the base period employer, the weekly benefit amount payable to such
4 individual for such week shall be reduced (but not below zero) by the
5 prorated weekly amount of the pension, retirement or retired pay, annuity
6 or other similar periodic payment after deduction of that portion of the
7 pension, retirement or retired pay, annuity or other similar periodic
8 payment that is directly attributable to the percentage of the contributions
9 made to the plan by such individual; ~~or~~ (3) if the entire contributions to the
10 plan were provided by such individual, or by the individual and an
11 employer (or any person or organization) who is not a base period
12 employer, no reduction in the weekly benefit amount payable to the
13 individual for such week shall be made under this subsection; or (4)
14 whatever portion of contributions to such plan were provided by the base
15 period employer, if the services performed for the employer by such
16 individual during the base period, or remuneration received for the
17 services, did not affect the individual's eligibility for, or increased the
18 amount of, such pension, retirement or retired pay, annuity or other similar
19 periodic payment, no reduction in the weekly benefit amount payable to
20 the individual for such week shall be made under this subsection. No
21 reduction shall be made for payments made under the social security act or
22 railroad retirement act of 1974.

23 (o) For any week of unemployment on the basis of services
24 performed in any capacity and under any of the circumstances described in
25 subsection (i), (j) or (k) which an individual performed in an educational
26 institution while in the employ of an educational service agency. For the
27 purposes of this subsection, the term "educational service agency" means a
28 governmental agency or entity which is established and operated
29 exclusively for the purpose of providing such services to one or more
30 educational institutions.

31 (p) For any week of unemployment on the basis of service as a school
32 bus or other motor vehicle driver employed by a private contractor to
33 transport pupils, students and school personnel to or from school-related
34 functions or activities for an educational institution, as defined in
35 subsection (v) of K.S.A. 44-703, and amendments thereto, if such week
36 begins during the period between two successive academic years or during
37 a similar period between two regular terms, whether or not successive, if
38 the individual has a contract or contracts, or a reasonable assurance
39 thereof, to perform services in any such capacity with a private contractor
40 for any educational institution for both such academic years or both such
41 terms. An individual shall not be disqualified for benefits as provided in
42 this subsection for any week of unemployment on the basis of service as a
43 bus or other motor vehicle driver employed by a private contractor to

1 transport persons to or from nonschool-related functions or activities.

2 (q) For any week of unemployment on the basis of services
3 performed by the individual in any capacity and under any of the
4 circumstances described in subsection (i), (j), (k) or (o) which are provided
5 to or on behalf of an educational institution, as defined in subsection (v) of
6 K.S.A. 44-703, and amendments thereto, while the individual is in the
7 employ of an employer which is a governmental entity, Indian tribe or any
8 employer described in section 501(c)(3) of the federal internal revenue
9 code of 1986 which is exempt from income under section 501(a) of the
10 code.

11 (r) For any week in which an individual is registered at and attending
12 an established school, training facility or other educational institution, or is
13 on vacation during or between two successive academic years or terms. An
14 individual shall not be disqualified for benefits as provided in this
15 subsection provided:

16 (1) The individual was engaged in full-time employment concurrent
17 with the individual's school attendance; ~~or~~

18 (2) the individual is attending approved training as defined in
19 subsection (s) of K.S.A. 44-703, and amendments thereto; or

20 (3) the individual is attending evening, weekend or limited day time
21 classes, which would not affect availability for work, and is otherwise
22 eligible under subsection (c) of K.S.A. 44-705, and amendments thereto.

23 (s) For any week with respect to which an individual is receiving or
24 has received remuneration in the form of a back pay award or settlement.
25 The remuneration shall be allocated to the week or weeks in the manner as
26 specified in the award or agreement, or in the absence of such specificity
27 in the award or agreement, such remuneration shall be allocated to the
28 week or weeks in which such remuneration, in the judgment of the
29 secretary, would have been paid.

30 (1) For any such weeks that an individual receives remuneration in
31 the form of a back pay award or settlement, an overpayment will be
32 established in the amount of unemployment benefits paid and shall be
33 collected from the claimant.

34 (2) If an employer chooses to withhold from a back pay award or
35 settlement, amounts paid to a claimant while they claimed unemployment
36 benefits, such employer shall pay the department the amount withheld.
37 With respect to such amount, the secretary shall have available all of the
38 collection remedies authorized or provided in K.S.A. 44-717, and
39 amendments thereto.

40 ~~(t) If the individual has been discharged for failing a preemployment~~
41 ~~drug screen required by the employer and if such discharge occurs not later~~
42 ~~than seven days after the employer is notified of the results of such drug~~
43 ~~screen. The disqualification shall begin the day following the separation~~

1 ~~and shall continue until after the individual becomes reemployed and has~~
2 ~~had earnings from insured work of at least three times the individual's~~
3 ~~determined weekly benefit amount.~~

4 *(1) Any applicant for or recipient of unemployment benefits who tests*
5 *positive for use of a controlled substance or controlled substance analog*
6 *shall be required to complete a substance abuse treatment program*
7 *approved by the secretary of labor, secretary of commerce or secretary for*
8 *children and families, and a job skills program approved by the secretary*
9 *of labor, secretary of commerce or the secretary for children and families.*
10 *Subject to applicable federal laws, any applicant for or recipient of*
11 *unemployment benefits who fails to complete or refuses to participate in*
12 *the substance abuse treatment program or job skills program as required*
13 *under this subsection shall be ineligible to receive unemployment benefits*
14 *until completion of such substance abuse treatment and job skills*
15 *programs. Upon completion of both substance abuse treatment and job*
16 *skills programs, such applicant for or recipient of unemployment benefits*
17 *may be subject to periodic drug screening, as determined by the secretary*
18 *of labor. Upon a second positive test for use of a controlled substance or*
19 *controlled substance analog, an applicant for or recipient of*
20 *unemployment benefits shall be ordered to complete again a substance*
21 *abuse treatment program and job skills program, and shall be terminated*
22 *from unemployment benefits for a period of 12 months, or until such*
23 *applicant for or recipient of unemployment benefits completes both*
24 *substance abuse treatment and job skills programs, whichever is later.*
25 *Upon a third positive test for use of a controlled substance or controlled*
26 *substance analog, an applicant for or a recipient of unemployment*
27 *benefits shall be terminated from receiving unemployment benefits, subject*
28 *to applicable federal law.*

29 *(2) Any individual who has been discharged or refused employment*
30 *for failing a preemployment drug screen required by an employer may*
31 *request that the drug screening specimen be sent to a different drug testing*
32 *facility for an additional drug screening. Any such individual who requests*
33 *an additional drug screening at a different drug testing facility shall be*
34 *required to pay the cost of drug screening.*

35 *(u) If the individual was found not to have a disqualifying*
36 *adjudication or conviction under K.S.A. 39-970, and amendments thereto,*
37 *or K.S.A. 65-5117, and amendments thereto, was hired and then was*
38 *subsequently convicted of a disqualifying felony under K.S.A. 39-970, and*
39 *amendments thereto, or K.S.A. 65-5117, and amendments thereto, and*
40 *discharged pursuant to K.S.A. 39-970, and amendments thereto, or K.S.A.*
41 *65-5117, and amendments thereto. The disqualification shall begin the day*
42 *following the separation and shall continue until after the individual*
43 *becomes reemployed and has had earnings from insured work of at least*

1 three times the individual's determined weekly benefit amount.

2 Sec. 5. K.S.A. 2012 Supp. 39-709, 39-709e and 44-706 are hereby
3 repealed.

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