

SENATE BILL No. 301

By Committee on Ways and Means

4-30

Proposed Amendments for SB 301
May 6, 2015
Committee on Ways and Means
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Office of Revisor of Statutes

1 AN ACT reconciling amendments to certain statutes; amending K.S.A.
2 2014 Supp. 12-1744a, 12-4516, 12-4516a, 17-7673, 17-7674, 17-7677,
3 21-6604, ~~21-6614~~ 38-2310, 39-709, as amended by section 9 of 2015
4 Senate Substitute for House Bill No. 2258, 65-2895, 74-4911f, 74-
5 4914d, as amended by section 2 of 2015 Senate Bill No. 228, 74-4920,
6 as amended by section 3 of 2015 Senate Bill No. 228, 75-37, 121, 76-
7 1936, 79-1609 and 79-1703 and repealing the existing sections; also
8 repealing K.S.A. 2013 Supp. 38-2310, as amended by section 2 of
9 chapter 131 of the 2014 Session Laws of Kansas and 65-2895, as
10 amended by section 36 of chapter 131 of the 2014 Session Laws of
11 Kansas and K.S.A. 2014 Supp. 9-1111, as amended by section 8 of
12 2015 House Bill No. 2216, 9-1215, as amended by section 1 of 2015
13 Senate Substitute for House Bill No. 2258, 9-1216, as amended by
14 section 2 of 2015 Senate Substitute for House Bill No. 2258, 12-1744f,
15 12-4516b, 12-4516c, 17-7673a, 17-7674a, 17-7677a, 20-380a, 21-
16 6604c, ~~21-6614e~~ 39-709, as amended by section 150 of 2015 Senate
17 Bill No. 240, 74-4911j, 74-4914d, as amended by section 55 of 2015
18 House Substitute for Senate Bill No. 4, 74-4920, as amended by section
19 56 of 2015 House Substitute for Senate Bill No. 4, 74-99b34a, 75-
20 37, 121b, 76-1936a, 79-1609a and 79-1703a.
21

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

23 Section 1. K.S.A. 2014 Supp. 12-1744a is hereby amended to read as
24 follows: 12-1744a. (a) At least seven days prior to the issuance of any
25 revenue bonds, the city or county shall file a statement with the state ~~with~~
26 *board* of tax appeals of such proposed issuance containing the following
27 information:

28 (1) The name of the city or county proposing to issue the revenue
29 bonds, the lessee, the guarantor, if any, the paying or fiscal agent, the
30 underwriter, if any, and all attorneys retained to render an opinion on the
31 issue;

32 (2) a legal description of any property to be exempted from ad
33 valorem taxes, including the city or county in which the facility will be
34 located;

35 (3) the appraised valuation of the property to be exempted from ad
36 valorem taxes as shown on the records of the county as of the next

1 preceding January 1. Any listing of property shall not constitute a
2 classification of the property. Classification of any property acquired
3 during the tax exemption period shall be determined at the end of the
4 exemption period in accordance with K.S.A. 2014 Supp. 79-262, and
5 amendments thereto;

6 (4) the estimated total cost of the facility showing a division of such
7 total cost between real and personal property;

8 (5) if the facility to be financed is an addition to or further
9 improvement of an existing facility the cost of which was financed by
10 revenue bonds issued under the provisions of this act, the date of issuance
11 of such revenue bonds, and if such facility or any portion thereof is
12 presently exempt from property taxation, the period for which the same is
13 exempt;

14 (6) the principal amount of the revenue bonds to be issued;

15 (7) the amount of any payment to be made in lieu of taxes;

16 (8) an itemized list of service fees or charges to be paid by the lessee
17 together with a detailed description of the services to be rendered therefor;

18 (9) a reasonably detailed description of the use of bond proceeds,
19 including whether they will be used to purchase, acquire, construct,
20 reconstruct, improve, equip, furnish, enlarge or remodel the facility in
21 question; *and*

22 (10) the proposed date of issuance of such revenue bonds.

23 (b) Any change in the information or documents required to be filed
24 pursuant to subsection (a) which does not materially adversely affect the
25 security for the revenue bond issue may be made within the fifteen-day
26 period prior to issuance of the revenue bonds by filing the amended
27 information or document with the state-~~exempt~~ *board* of tax appeals.

28 (c) Any notice required to be filed pursuant to the provisions of
29 subsection (a) shall be accompanied by a filing fee, which shall be fixed
30 by rules and regulations of the state-~~exempt~~ *board* of tax appeals, in an
31 amount sufficient to defray the cost of reviewing the information and
32 documents required to be contained in the notice.

33 (d) Information required to be filed by subsection (a) of this section
34 shall be in addition to any filing required by K.S.A. 79-210, and
35 amendments thereto.

36 (e) The state-~~exempt~~ *board* of tax appeals may require any information
37 listed under subsection (a) deemed necessary, to be filed by a city or
38 county concerning agreements entered into prior to the effective date of
39 this act.

40 (f) The state-~~exempt~~ *board* of tax appeals shall prepare and compile
41 annually a report containing the information required to be filed pursuant
42 to subsection (a) for each issuance of revenue bonds made pursuant to
43 K.S.A. 12-1740 et seq., and amendments thereto. Such report shall be

published in convenient form for the use and information of the legislature, taxpayers, public officers and other interested parties, and shall be available on January 10 of each year.

Sec. 2. K.S.A. 2014 Supp. 12-4516 is hereby amended to read as follows: 12-4516. (a) (1) Except as provided in subsections (b), (c), (d), (e) and (f), any person who has been convicted of a violation of a city ordinance of this state may petition the convicting court for the expungement of such conviction and related arrest records if three or more years have elapsed since the person:

(A) Satisfied the sentence imposed; or

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

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

(b) Any person convicted of a violation of any ordinance that is prohibited by either ~~subsection (a) or (b)~~ of K.S.A. 2014 Supp. 12-16,134(a) or (b), and amendments thereto, and which was adopted prior to July 1, 2014, or who entered into a diversion agreement in lieu of further criminal proceedings for such violation, may petition the convicting court for the expungement of such conviction or diversion agreement and related arrest records.

(c) Any person convicted of the violation of a city ordinance which would also constitute a violation of K.S.A. 21-3512, prior to its repeal, or a violation of K.S.A. 2014 Supp. 21-6419, and amendments thereto, or who entered into a diversion agreement in lieu of further criminal proceedings for such violation, may petition the convicting court for the expungement of such conviction or diversion agreement and related arrest records if:

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

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

(d) No person may petition for expungement until five or more years have elapsed since the person satisfied the sentence imposed or the terms of a diversion agreement or was discharged from probation, parole, conditional release or a suspended sentence, if such person was convicted

1 of the violation of a city ordinance which would also constitute:

- 2 (1) Vehicular homicide, as defined by K.S.A. 21-3405, prior to its
- 3 repeal, or K.S.A. 2014 Supp. 21-5406, and amendments thereto;
- 4 (2) driving while the privilege to operate a motor vehicle on the
- 5 public highways of this state has been canceled, suspended or revoked, as
- 6 prohibited by K.S.A. 8-262, and amendments thereto;
- 7 (3) perjury resulting from a violation of K.S.A. 8-261a, and
- 8 amendments thereto;
- 9 (4) a violation of the provisions of the fifth clause of K.S.A. 8-142,
- 10 and amendments thereto, relating to fraudulent applications;
- 11 (5) any crime punishable as a felony wherein a motor vehicle was
- 12 used in the perpetration of such crime;
- 13 (6) failing to stop at the scene of an accident and perform the duties
- 14 required by K.S.A. 8-1602, 8-1603, prior to its repeal, or 8-1604, and
- 15 amendments thereto;
- 16 (7) a violation of the provisions of K.S.A. 40-3104, and amendments
- 17 thereto, relating to motor vehicle liability insurance coverage; or
- 18 (8) a violation of K.S.A. 21-3405b, prior to its repeal.
- 19 (e) No person may petition for expungement until 10 or more years
- 20 have elapsed since the person satisfied the sentence imposed or the terms
- 21 of a diversion agreement or was discharged from probation, parole,
- 22 conditional release or a suspended sentence, if such person was convicted
- 23 of the violation of a city ordinance which would also constitute a violation
- 24 of K.S.A. 8-1567, and amendments thereto.
- 25 (f) There shall be no expungement of convictions or diversions for a
- 26 violation of a city ordinance which would also constitute a violation of
- 27 K.S.A. 8-2, 144, and amendments thereto.
- 28 (g) (1) When a petition for expungement is filed, the court shall set a
- 29 date for a hearing of such petition and shall cause notice of such hearing to
- 30 be given to the prosecuting attorney and the arresting law enforcement
- 31 agency. The petition shall state the:
- 32 (A) Defendant's full name;
- 33 (B) full name of the defendant at the time of arrest, conviction or
- 34 diversion, if different than the defendant's current name;
- 35 (C) defendant's sex, race and date of birth;
- 36 (D) crime for which the defendant was arrested, convicted or
- 37 diverted;
- 38 (E) date of the defendant's arrest, conviction or diversion; and
- 39 (F) identity of the convicting court, arresting law enforcement agency
- 40 or diverting authority.
- 41 (2) A municipal court may prescribe a fee to be charged as costs for a
- 42 person petitioning for an order of expungement pursuant to this section.
- 43 (3) Any person who may have relevant information about the

1 petitioner may testify at the hearing. The court may inquire into the
2 background of the petitioner and shall have access to any reports or
3 records relating to the petitioner that are on file with the secretary of
4 corrections or the prisoner review board.

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

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

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

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

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

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

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

27 (A) In any application for employment as a detective with a private
28 detective agency, as defined by K.S.A. 75-7b01, and amendments thereto;
29 as security personnel with a private patrol operator, as defined by K.S.A.
30 75-7b01, and amendments thereto; or with an institution, as defined in
31 K.S.A. 76-12a01, and amendments thereto, of the ~~department for children~~
32 ~~and families~~ *Kansas department for aging and disability services*;

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

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

39 (D) to aid in determining the petitioner's qualifications for executive
40 director of the Kansas racing and gaming commission, for employment
41 with the commission or for work in sensitive areas in pari-mutuel racing as
42 deemed appropriate by the executive director of the commission, or to aid
43 in determining qualifications for licensure or renewal of licensure by the

1 commission;

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

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

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

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

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

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

19 (K) for applications received on and after July 1, 2006, to aid in
20 determining the petitioner's qualifications for a license to carry a concealed
21 weapon pursuant to the personal and family protection act, K.S.A. 2014
22 Supp. 75-7c01 et seq., and amendments thereto;

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

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

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

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

40 (l) Whenever the record of any arrest, conviction or diversion has
41 been expunged under the provisions of this section or under the provisions
42 of any other existing or former statute, the custodian of the records of
43 arrest, conviction, diversion and incarceration relating to that crime shall

1 not disclose the existence of such records, except when requested by:

2 (1) The person whose record was expunged;

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

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

9 (4) the secretary of the department for ~~children and families~~ *aging*
10 *and disability services*, or a designee of the secretary, for the purpose of
11 obtaining information relating to employment in an institution, as defined
12 in K.S.A. 76-12a01, and amendments thereto, of the ~~department for~~
13 ~~children and families~~ *Kansas department for aging and disability services*
14 of any person whose record has been expunged;

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

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

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

27 (8) the Kansas lottery, and the request is accompanied by a statement
28 that the request is being made to aid in determining qualifications for
29 employment with the Kansas lottery or for work in sensitive areas within
30 the Kansas lottery as deemed appropriate by the executive director of the
31 Kansas lottery;

32 (9) the governor or the Kansas racing and gaming commission, or a
33 designee of the commission, and the request is accompanied by a
34 statement that the request is being made to aid in determining
35 qualifications for executive director of the commission, for employment
36 with the commission, for work in sensitive areas in parimutuel racing as
37 deemed appropriate by the executive director of the commission or for
38 licensure, renewal of licensure or continued licensure by the commission;

39 (10) the Kansas racing and gaming commission, or a designee of the
40 commission, and the request is accompanied by a statement that the
41 request is being made to aid in determining qualifications of the following
42 under the Kansas expanded lottery act: (A) Lottery gaming facility
43 managers and prospective managers, racetrack gaming facility managers

1 and prospective managers, licensees and certificate holders; and (B) their
2 officers, directors, employees, owners, agents and contractors;

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

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

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

18 (14) the Kansas sentencing commission;

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

23 (16) a law enforcement agency and the request is accompanied by a
24 statement that the request is being made to aid in determining eligibility
25 for employment as a law enforcement officer as defined by K.S.A. 22-
26 2202, and amendments thereto.

27 Sec. 3. K.S.A. 2014 Supp. 12-4516a is hereby amended to read as
28 follows: 12-4516a.(a) Any person who has been arrested on a violation of
29 a city ordinance of this state may petition the court for the expungement of
30 such arrest record.

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

41 (1) The petitioner's full name;

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

1 (3) the petitioner's sex, race and date of birth;
2 (4) the crime for which the petitioner was arrested;
3 (5) the date of the petitioner's arrest; and
4 (6) the identity of the arresting law enforcement agency.
5 A municipal court may prescribe a fee to be charged as costs for a
6 person petitioning for an order of expungement pursuant to this section,
7 except that no fee shall be charged to a person who was arrested as a result
8 of being a victim of identity theft under K.S.A. 21-4018, prior to its repeal,
9 or K.S.A. 2014 Supp. 21-6107, and amendments thereto. Any person who
10 may have relevant information about the petitioner may testify at the
11 hearing. The court may inquire into the background of the petitioner.

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

15 (1) The arrest occurred because of mistaken identity;
16 (2) a court has found that there was no probable cause for the arrest;
17 (3) the petitioner was found not guilty in court proceedings;
18 (4) the arrest was for a violation of any ordinance that is prohibited
19 by either ~~subsection (a) or (b)~~ of K.S.A. 2014 Supp. 12-16, 134(a) or (b),
20 and amendments thereto, and which was adopted prior to July 1, 2014; or
21 (5) the expungement would be in the best interests of justice and: (A)
22 Charges have been dismissed; or (B) no charges have been or are likely to
23 be filed.

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

33 (e) If the ground for expungement is as provided in subsection (c)(5),
34 the court shall determine whether, in the interest of public welfare, the
35 records should be available for any of the following purposes:

36 (1) In any application for employment as a detective with a private
37 detective agency, as defined by K.S.A. 75-7b01, and amendments thereto;
38 as security personnel with a private patrol operator, as defined by K.S.A.
39 75-7b01, and amendments thereto; or with an institution, as defined in
40 K.S.A. 76-12a01, and amendments thereto, of the ~~department of social and~~
41 ~~rehabilitation~~ *Kansas department for aging and disability* services;

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

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

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

11 (5) in any application for a commercial driver's license under K.S.A.
12 8-2,125 through 8-2,142, and amendments thereto;

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

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

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

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

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

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

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

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

39 Sec. 4. K.S.A. 2014 Supp. 17-7673 is hereby amended to read as
40 follows: 17-7673. (a) In order to form a limited liability company, one or
41 more authorized persons must execute articles of organization. The articles
42 of organization shall be filed with the secretary of state and set forth:

43 (1) The name of the limited liability company;

1 (2) the address of the registered office and the name and address of
2 the resident agent for service of process required to be maintained by
3 K.S.A. ~~17-7666~~ 2014 Supp. 17-7924 and 17-7925, and amendments
4 thereto;

5 (3) any other matters the members determine to include therein;

6 (4) if the limited liability company is organized to exercise the
7 powers of a professional association or professional corporation, each such
8 profession shall be stated; and

9 (5) if the limited liability company will have series, the matters
10 required by K.S.A. 17-76, 143, and amendments thereto.

11 (b) ~~A limited liability company is formed at the time of the filing of~~
12 ~~the initial articles of organization with the secretary of state or at any later~~
13 ~~date or time specified in the articles of organization which is not later than~~
14 ~~90 days after the date of filing, if, in either case, there has been substantial~~
15 ~~compliance with the requirements of this section.~~ A limited liability
16 company formed under this act shall be a separate legal entity, the
17 existence of which as a separate legal entity shall continue until
18 cancellation of the limited liability company's articles of organization.

19 (c) An operating agreement shall be entered into or otherwise existing
20 either before, after or at the time of the filing of the articles of organization
21 and, whether entered into or otherwise existing before, after or at the time
22 of such filing, may be made effective as of the effective time of such filing
23 or at such other time or date as provided in or reflected by the operating
24 agreement.

25 (d) *The articles of organization shall be amended as provided in a*
26 *certificate of amendment or judicial decree of amendment upon the filing*
27 *of the certificate of amendment or judicial decree of amendment with the*
28 *secretary of state or upon the future effective date specified in the*
29 *certificate of amendment.*

30 (e) *Upon filing the articles of organization of a limited liability*
31 *company organized to exercise powers of a professional association or*
32 *professional corporation, the limited liability company shall file with the*
33 *secretary of state a certificate by the licensing body, as defined in K.S.A.*
34 *74-146, and amendments thereto, of the profession involved that each of*
35 *the members is duly licensed to practice that profession, and that the*
36 *proposed company name has been approved.*

37 Sec. 5. K.S.A. 2014 Supp. 17-7674 is hereby amended to read as
38 follows: 17-7674. (a) Articles of organization are amended by filing a
39 certificate of amendment thereto with the secretary of state. The certificate
40 of amendment shall set forth:

41 (1) The name of the limited liability company; and

42 (2) the amendment to the articles of organization.

43 (b) A manager or, if there is no manager, then any member who

1 becomes aware that any statement in the articles of organization was false
2 in any material respect when made, or that any matter described has
3 changed making the articles of organization false in any material respect,
4 shall promptly amend the articles of organization.

5 (c) Articles of organization may be amended at any time for any other
6 proper purpose.

7 ~~(d) Unless otherwise provided in this act or unless a later effective~~
8 ~~date or time, which shall be a date or time certain within 90 days of the~~
9 ~~date of filing, is provided for in the certificate of amendment, a certificate~~
10 ~~of amendment shall be effective at the time of its filing with the secretary~~
11 ~~of state.~~

12 Sec. 6. K.S.A. 2014 Supp. 17-7677 is hereby amended to read as
13 follows: 17-7677. (a) ~~If a person required to execute articles of~~
14 ~~organization or a certificate required by K.S.A. 17-7673 through 17-7683,~~
15 ~~and amendments thereto, fails or refuses to do so, any other person who is~~
16 ~~adversely affected by the failure or refusal may petition the district court to~~
17 ~~direct the execution of the articles of organization or certificate. If the~~
18 ~~court finds that the execution of the articles of organization or certificate is~~
19 ~~proper and that any person so designated has failed or refused to execute~~
20 ~~the articles of organization or certificate, it shall order the secretary of state~~
21 ~~to record appropriate articles of organization or a certificate.~~

22 (b) If a person required to execute an operating agreement or
23 amendment thereof fails or refuses to do so, any other person who is
24 adversely affected by the failure or refusal may petition the district court to
25 direct the execution of the operating agreement or amendment thereof. If
26 the court finds that the operating agreement or amendment thereof should
27 be executed and that any person required to execute the operating
28 agreement or amendment thereof has failed or refused to do so, it shall
29 enter an order granting appropriate relief.

30 Sec. 7. K.S.A. 2014 Supp. 21-6604 is hereby amended to read as
31 follows: 21-6604. (a) Whenever any person has been found guilty of a
32 crime, the court may adjudge any of the following:

33 (1) Commit the defendant to the custody of the secretary of
34 corrections if the current crime of conviction is a felony and the sentence
35 presumes imprisonment, or the sentence imposed is a dispositional
36 departure to imprisonment; or, if confinement is for a misdemeanor, to jail
37 for the term provided by law;

38 (2) impose the fine applicable to the offense and may impose the
39 provisions of subsection (q);

40 (3) release the defendant on probation if the current crime of
41 conviction and criminal history fall within a presumptive nonprison
42 category or through a departure for substantial and compelling reasons
43 subject to such conditions as the court may deem appropriate. In felony

1 cases except for violations of K.S.A. 8-1567, 8-2,144 and K.S.A. 2014
2 Supp. 8-1025, and amendments thereto, the court may include
3 confinement in a county jail not to exceed 60 days, which need not be
4 served consecutively, as a condition of an original probation sentence;

5 (4) assign the defendant to a community correctional services
6 program as provided in K.S.A. 75-5291, and amendments thereto, or
7 through a departure for substantial and compelling reasons subject to such
8 conditions as the court may deem appropriate, including orders requiring
9 full or partial restitution;

10 (5) assign the defendant to a conservation camp for a period not to
11 exceed six months as a condition of probation followed by a six-month
12 period of follow-up through adult intensive supervision by a community
13 correctional services program, if the offender successfully completes the
14 conservation camp program;

15 (6) assign the defendant to a house arrest program pursuant to K.S.A.
16 2014 Supp. 21-6609, and amendments thereto;

17 (7) order the defendant to attend and satisfactorily complete an
18 alcohol or drug education or training program as provided by ~~subsection~~
19 ~~(e)~~ of K.S.A. 2014 Supp. 21-6602(c), and amendments thereto;

20 (8) order the defendant to repay the amount of any reward paid by
21 any crime stoppers chapter, individual, corporation or public entity which
22 materially aided in the apprehension or conviction of the defendant; repay
23 the amount of any costs and expenses incurred by any law enforcement
24 agency in the apprehension of the defendant, if one of the current crimes
25 of conviction of the defendant includes escape from custody or aggravated
26 escape from custody, as defined in K.S.A. 2014 Supp. 21-5911, and
27 amendments thereto; repay expenses incurred by a fire district, fire
28 department or fire company responding to a fire which has been
29 determined to be arson or aggravated arson as defined in K.S.A. 2014
30 Supp. 21-5812, and amendments thereto, if the defendant is convicted of
31 such crime; repay the amount of any public funds utilized by a law
32 enforcement agency to purchase controlled substances from the defendant
33 during the investigation which leads to the defendant's conviction; or repay
34 the amount of any medical costs and expenses incurred by any law
35 enforcement agency or county. Such repayment of the amount of any such
36 costs and expenses incurred by a county, law enforcement agency, fire
37 district, fire department or fire company or any public funds utilized by a
38 law enforcement agency shall be deposited and credited to the same fund
39 from which the public funds were credited to prior to use by the county,
40 law enforcement agency, fire district, fire department or fire company;
41 (9) order the defendant to pay the administrative fee authorized by
42 K.S.A. 22-4529, and amendments thereto, unless waived by the court;
43 (10) order the defendant to pay a domestic violence special program

1 fee authorized by K.S.A. 20-369, and amendments thereto;

2 (11) if the defendant is convicted of a misdemeanor or convicted of a
3 felony specified in ~~subsection (i) of~~ K.S.A. 2014 Supp. 21-6804(i), and
4 amendments thereto, assign the defendant to work release program, other
5 than a program at a correctional institution under the control of the
6 secretary of corrections as defined in K.S.A. 75-5202, and amendments
7 thereto, provided such work release program requires such defendant to
8 return to confinement at the end of each day in the work release program.
9 On a second or subsequent conviction of K.S.A. 8-1567, and amendments
10 thereto, an offender placed into a work release program shall serve the
11 total number of hours of confinement mandated by that section;

12 (12) order the defendant to pay the full amount of unpaid costs
13 associated with the conditions of release of the appearance bond under
14 K.S.A. 22-2802, and amendments thereto;

15 (13) impose any appropriate combination of (1), (2), (3), (4), (5), (6),
16 (7), (8), (9), (10), (11) and (12); or

17 (14) suspend imposition of sentence in misdemeanor cases.

18 (b) (1) In addition to or in lieu of any of the above, the court shall
19 order the defendant to pay restitution, which shall include, but not be
20 limited to, damage or loss caused by the defendant's crime, unless the
21 court finds compelling circumstances which would render a plan of
22 restitution unworkable. In regard to a violation of K.S.A. 2014 Supp. 21-
23 6107, and amendments thereto, such damage or loss shall include, but not
24 be limited to, attorney fees and costs incurred to repair the credit history or
25 rating of the person whose personal identification documents were
26 obtained and used in violation of such section, and to satisfy a debt, lien or
27 other obligation incurred by the person whose personal identification
28 documents were obtained and used in violation of such section. If the court
29 finds a plan of restitution unworkable, the court shall state on the record in
30 detail the reasons therefor.

31 (2) If the court orders restitution, the restitution shall be a judgment
32 against the defendant which may be collected by the court by garnishment
33 or other execution as on judgments in civil cases. If, after 60 days from the
34 date restitution is ordered by the court, a defendant is found to be in
35 noncompliance with the plan established by the court for payment of
36 restitution, and the victim to whom restitution is ordered paid has not
37 initiated proceedings in accordance with K.S.A. 60-4301 et seq., and
38 amendments thereto, the court shall assign an agent procured by the
39 attorney general pursuant to K.S.A. 75-719, and amendments thereto, to
40 collect the restitution on behalf of the victim. The chief judge of each
41 judicial district may assign such cases to an appropriate division of the
42 court for the conduct of civil collection proceedings.

43 (c) In addition to or in lieu of any of the above, the court shall order

1 the defendant to submit to and complete an alcohol and drug evaluation,
2 and pay a fee therefor, when required by ~~subsection (d)~~ of K.S.A. 2014
3 Supp. 21-6602(d), and amendments thereto.

4 (d) In addition to any of the above, the court shall order the defendant
5 to reimburse the county general fund for all or a part of the expenditures
6 by the county to provide counsel and other defense services to the
7 defendant. Any such reimbursement to the county shall be paid only after
8 any order for restitution has been paid in full. In determining the amount
9 and method of payment of such sum, the court shall take account of the
10 financial resources of the defendant and the nature of the burden that
11 payment of such sum will impose. A defendant who has been required to
12 pay such sum and who is not willfully in default in the payment thereof
13 may at any time petition the court which sentenced the defendant to waive
14 payment of such sum or any unpaid portion thereof. If it appears to the
15 satisfaction of the court that payment of the amount due will impose
16 manifest hardship on the defendant or the defendant's immediate family,
17 the court may waive payment of all or part of the amount due or modify
18 the method of payment.

19 (e) In releasing a defendant on probation, the court shall direct that
20 the defendant be under the supervision of a court services officer. If the
21 court commits the defendant to the custody of the secretary of corrections
22 or to jail, the court may specify in its order the amount of restitution to be
23 paid and the person to whom it shall be paid if restitution is later ordered
24 as a condition of parole, conditional release or postrelease supervision.

25 (f) (1) When a new felony is committed while the offender is
26 incarcerated and serving a sentence for a felony, or while the offender is on
27 probation, assignment to a community correctional services program,
28 parole, conditional release or postrelease supervision for a felony, a new
29 sentence shall be imposed consecutively pursuant to the provisions of
30 K.S.A. 2014 Supp. 21-6606, and amendments thereto, and the court may
31 sentence the offender to imprisonment for the new conviction, even when
32 the new crime of conviction otherwise presumes a nonprison sentence. In
33 this event, imposition of a prison sentence for the new crime does not
34 constitute a departure.

35 (2) When a new felony is committed during a period of time during
36 which the defendant would have been on probation, assignment to a
37 community correctional services program, parole, conditional release or
38 postrelease supervision for a felony had the defendant not been granted
39 release by the court pursuant to ~~subsection (d)~~ of K.S.A. 2014 Supp. 21-
40 6608(d), and amendments thereto, or the prisoner review board pursuant to
41 K.S.A. 22-3717, and amendments thereto, the court may sentence the
42 offender to imprisonment for the new conviction, even when the new
43 crime of conviction otherwise presumes a nonprison sentence. In this

1 event, imposition of a prison sentence for the new crime does not
2 constitute a departure.

3 (3) When a new felony is committed while the offender is
4 incarcerated in a juvenile correctional facility pursuant to K.S.A. 38-1671,
5 prior to its repeal, or K.S.A. 2014 Supp. 38-2373, and amendments
6 thereto, for an offense, which if committed by an adult would constitute
7 the commission of a felony, upon conviction, the court shall sentence the
8 offender to imprisonment for the new conviction, even when the new
9 crime of conviction otherwise presumes a nonprison sentence. In this
10 event, imposition of a prison sentence for the new crime does not
11 constitute a departure. The conviction shall operate as a full and complete
12 discharge from any obligations, except for an order of restitution, imposed
13 on the offender arising from the offense for which the offender was
14 committed to a juvenile correctional facility.

15 (4) When a new felony is committed while the offender is on release
16 for a felony pursuant to the provisions of article 28 of chapter 22 of the
17 Kansas Statutes Annotated, and amendments thereto, or similar provisions
18 of the laws of another jurisdiction, a new sentence may be imposed
19 consecutively pursuant to the provisions of K.S.A. 2014 Supp. 21-6606,
20 and amendments thereto, and the court may sentence the offender to
21 imprisonment for the new conviction, even when the new crime of
22 conviction otherwise presumes a nonprison sentence. In this event,
23 imposition of a prison sentence for the new crime does not constitute a
24 departure.

25 (g) Prior to imposing a dispositional departure for a defendant whose
26 offense is classified in the presumptive nonprison grid block of either
27 sentencing guideline grid, prior to sentencing a defendant to incarceration
28 whose offense is classified in grid blocks 5-H, 5-I or 6-G of the sentencing
29 guidelines grid for nondrug crimes, in grid blocks 3-E, 3-F, 3-G, 3-H or 3-I
30 of the sentencing guidelines grid for drug crimes committed prior to July
31 1, 2012, or in grid blocks 4-E, 4-F, 4-G, 4-H or 4-I of the sentencing
32 guidelines grid for drug crimes committed on or after July 1, 2012, prior to
33 sentencing a defendant to incarceration whose offense is classified in grid
34 blocks 4-E or 4-F of the sentencing guidelines grid for drug crimes
35 committed prior to July 1, 2012, or in grid blocks 5-C, 5-D, 5-E or 5-F of
36 the sentencing guidelines grid for drug crimes committed on or after July
37 1, 2012, and whose offense does not meet the requirements of K.S.A. 2014
38 Supp. 21-6824, and amendments thereto, prior to revocation of a
39 nonprison sanction of a defendant whose offense is classified in grid
40 blocks 4-E or 4-F of the sentencing guidelines grid for drug crimes
41 committed prior to July 1, 2012, or in grid blocks 5-C, 5-D, 5-E or 5-F of
42 the sentencing guidelines grid for drug crimes committed on or after July
43 1, 2012, and whose offense does not meet the requirements of K.S.A. 2014

1 Supp. 21-6824, and amendments thereto, or prior to revocation of a
2 nonprison sanction of a defendant whose offense is classified in the
3 presumptive nonprison grid block of either sentencing guideline grid or
4 grid blocks 5-H, 5-I or 6-G of the sentencing guidelines grid for nondrug
5 crimes, in grid blocks 3-E, 3-F, 3-G, 3-H or 3-I of the sentencing
6 guidelines grid for drug crimes committed prior to July 1, 2012, or in grid
7 blocks 4-E, 4-F, 4-G, 4-H or 4-I of the sentencing guidelines grid for drug
8 crimes committed on or after July 1, 2012, the court shall consider
9 placement of the defendant in the Labette correctional conservation camp,
10 conservation camps established by the secretary of corrections pursuant to
11 K.S.A. 75-52, 127, and amendments thereto, or a community intermediate
12 sanction center. Pursuant to this subsection the defendant shall not be
13 sentenced to imprisonment if space is available in a conservation camp or
14 community intermediate sanction center and the defendant meets all of the
15 conservation camp's or community intermediate sanction center's
16 placement criteria unless the court states on the record the reasons for not
17 placing the defendant in a conservation camp or community intermediate
18 sanction center.

19 (h) In committing a defendant to the custody of the secretary of
20 corrections, the court shall fix a term of confinement within the limits
21 provided by law. In those cases where the law does not fix a term of
22 confinement for the crime for which the defendant was convicted, the
23 court shall fix the term of such confinement.

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

42 (j) This section shall not deprive the court of any authority conferred
43 by any other Kansas statute to decree a forfeiture of property, suspend or

1 cancel a license, remove a person from office or impose any other civil
2 penalty as a result of conviction of crime.

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

9 (l) The secretary of corrections is authorized to make direct
10 placement to the Labette correctional conservation camp or a conservation
11 camp established by the secretary pursuant to K.S.A. 75-52,127, and
12 amendments thereto, of an inmate sentenced to the secretary's custody if
13 the inmate:

14 (1) Has been sentenced to the secretary for a probation revocation, as
15 a departure from the presumptive nonimprisonment grid block of either
16 sentencing grid, for an offense which is classified in grid blocks 5-H, 5-I
17 or 6-G of the sentencing guidelines grid for nondrug crimes, in grid blocks
18 3-E, 3-F, 3-G, 3-H or 3-I of the sentencing guidelines grid for drug crimes
19 committed prior to July 1, 2012, in grid blocks 4-E, 4-F, 4-G, 4-H or 4-I of
20 the sentencing guidelines grid for drug crimes committed on or after July
21 1, 2012, or for an offense which is classified in grid blocks 4-E or 4-F of
22 the sentencing guidelines grid for drug crimes committed prior to July 1,
23 2012, or in grid blocks 5-C, 5-D, 5-E or 5-F of the sentencing guidelines
24 grid for drug crimes committed on or after July 1, 2012, and such offense
25 does not meet the requirements of K.S.A. 2014 Supp. 21-6824, and
26 amendments thereto; and

27 (2) otherwise meets admission criteria of the camp.

28 If the inmate successfully completes a conservation camp program, the
29 secretary of corrections shall report such completion to the sentencing
30 court and the county or district attorney. The inmate shall then be assigned
31 by the court to six months of follow-up supervision conducted by the
32 appropriate community corrections services program. The court may also
33 order that supervision continue thereafter for the length of time authorized
34 by K.S.A. 2014 Supp. 21-6608, and amendments thereto.

35 (m) When it is provided by law that a person shall be sentenced
36 pursuant to K.S.A. 1993 Supp. 21-4628, prior to its repeal, the provisions
37 of this section shall not apply.

38 (n) (1) Except as provided by ~~subsection (f)~~ of K.S.A. 2014 Supp. 21-
39 6630 and 21-6805(f), and amendments thereto, in addition to any of the
40 above, for felony violations of K.S.A. 2014 Supp. 21-5706, and
41 amendments thereto, the court shall require the defendant who meets the
42 requirements established in K.S.A. 2014 Supp. 21-6824, and amendments
43 thereto, to participate in a certified drug abuse treatment program, as

1 provided in K.S.A. 2014 Supp. 75-52,144, and amendments thereto,
2 including, but not limited to, an approved after-care plan. The amount of
3 time spent participating in such program shall not be credited as service on
4 the underlying prison sentence.

5 (2) If the defendant fails to participate in or has a pattern of
6 intentional conduct that demonstrates the defendant's refusal to comply
7 with or participate in the treatment program, as established by judicial
8 finding, the defendant shall be subject to sanction or revocation pursuant
9 to the provisions of K.S.A. 22-3716, and amendments thereto. If the
10 defendant's probation is revoked, the defendant shall serve the underlying
11 prison sentence as established in K.S.A. 2014 Supp. 21-6805, and
12 amendments thereto.

13 (A) Except as provided in subsection (n)(2)(B), for those offenders
14 who are convicted on or after July 1, 2003, but prior to July 1, 2013, upon
15 completion of the underlying prison sentence, the offender shall not be
16 subject to a period of postrelease supervision.

17 (B) Offenders whose crime of conviction was committed on or after
18 July 1, 2013, and whose probation is revoked pursuant to ~~subsection (e) of~~
19 K.S.A. 22-3716(c), and amendments thereto, or whose underlying prison
20 term expires while serving a sanction pursuant to ~~subsection (e)(1)(C) or~~
21 ~~(e)(4)(D) of~~ K.S.A. 22-3716(c)(1)(C) or (c)(1)(D), and amendments
22 thereto, shall serve a period of postrelease supervision upon the
23 completion of the underlying prison term.

24 (o) (1) Except as provided in paragraph (3), in addition to any other
25 penalty or disposition imposed by law, upon a conviction for unlawful
26 possession of a controlled substance or controlled substance analog in
27 violation of K.S.A. 2014 Supp. 21-5706, and amendments thereto, in
28 which the trier of fact makes a finding that the unlawful possession
29 occurred while transporting the controlled substance or controlled
30 substance analog in any vehicle upon a highway or street, the offender's
31 driver's license or privilege to operate a motor vehicle on the streets and
32 highways of this state shall be suspended for one year.

33 (2) Upon suspension of a license pursuant to this subsection, the court
34 shall require the person to surrender the license to the court, which shall
35 transmit the license to the division of motor vehicles of the department of
36 revenue, to be retained until the period of suspension expires. At that time,
37 the licensee may apply to the division for return of the license. If the
38 license has expired, the person may apply for a new license, which shall be
39 issued promptly upon payment of the proper fee and satisfaction of other
40 conditions established by law for obtaining a license unless another
41 suspension or revocation of the person's privilege to operate a motor
42 vehicle is in effect.

43 (3) (A) In lieu of suspending the driver's license or privilege to

1 operate a motor vehicle on the highways of this state of any person as
2 provided in paragraph (1), the judge of the court in which such person was
3 convicted may enter an order which places conditions on such person's
4 privilege of operating a motor vehicle on the highways of this state, a
5 certified copy of which such person shall be required to carry any time
6 such person is operating a motor vehicle on the highways of this state. Any
7 such order shall prescribe the duration of the conditions imposed, which in
8 no event shall be for a period of more than one year.

9 (B) Upon entering an order restricting a person's license hereunder,
10 the judge shall require such person to surrender such person's driver's
11 license to the judge who shall cause it to be transmitted to the division of
12 vehicles, together with a copy of the order. Upon receipt thereof, the
13 division of vehicles shall issue without charge a driver's license which
14 shall indicate on its face that conditions have been imposed on such
15 person's privilege of operating a motor vehicle and that a certified copy of
16 the order imposing such conditions is required to be carried by the person
17 for whom the license was issued any time such person is operating a motor
18 vehicle on the highways of this state. If the person convicted is a
19 nonresident, the judge shall cause a copy of the order to be transmitted to
20 the division and the division shall forward a copy of it to the motor vehicle
21 administrator of such person's state of residence. Such judge shall furnish
22 to any person whose driver's license has had conditions imposed on it
23 under this paragraph a copy of the order, which shall be recognized as a
24 valid Kansas driver's license until such time as the division shall issue the
25 restricted license provided for in this paragraph.

26 (C) Upon expiration of the period of time for which conditions are
27 imposed pursuant to this subsection, the licensee may apply to the division
28 for the return of the license previously surrendered by such licensee. In the
29 event such license has expired, such person may apply to the division for a
30 new license, which shall be issued immediately by the division upon
31 payment of the proper fee and satisfaction of the other conditions
32 established by law, unless such person's privilege to operate a motor
33 vehicle on the highways of this state has been suspended or revoked prior
34 thereto. If any person shall violate any of the conditions imposed under
35 this paragraph, such person's driver's license or privilege to operate a
36 motor vehicle on the highways of this state shall be revoked for a period of
37 not less than 60 days nor more than one year by the judge of the court in
38 which such person is convicted of violating such conditions.

39 (4) As used in this subsection, "highway" and "street" mean the same
40 as in K.S.A. 8-1424 and 8-1473, and amendments thereto.

41 (p) In addition to any of the above, for any criminal offense that
42 includes the domestic violence designation pursuant to K.S.A. 2014 Supp.
43 22-4616, and amendments thereto, the court shall require the defendant to:

(1) Undergo a domestic violence offender assessment conducted by a certified batterer intervention program; and (2) follow all recommendations made by such program, unless otherwise ordered by the court or the department of corrections. The court may order a domestic violence offender assessment and any other evaluation prior to sentencing if the assessment or evaluation would assist the court in determining an appropriate sentence. The entity completing the assessment or evaluation shall provide the assessment or evaluation and recommendations to the court and the court shall provide the domestic violence offender assessment to any entity responsible for supervising such defendant. A defendant ordered to undergo a domestic violence offender assessment shall be required to pay for the assessment and, unless otherwise ordered by the court or the department of corrections, for completion of all recommendations.

(q) In imposing a fine, the court may authorize the payment thereof in installments. In lieu of payment of any fine imposed, the court may order that the person perform community service specified by the court. The person shall receive a credit on the fine imposed in an amount equal to \$5 for each full hour spent by the person in the specified community service. The community service ordered by the court shall be required to be performed by the later of one year after the fine is imposed or one year after release from imprisonment or jail, or by an earlier date specified by the court. If by the required date the person performs an insufficient amount of community service to reduce to zero the portion of the fine required to be paid by the person, the remaining balance shall become due on that date. If conditional reduction of any fine is rescinded by the court for any reason, then pursuant to the court's order the person may be ordered to perform community service by one year after the date of such rescission or by an earlier date specified by the court. If by the required date the person performs an insufficient amount of community service to reduce to zero the portion of the fine required to be paid by the person, the remaining balance of the fine shall become due on that date. All credits for community service shall be subject to review and approval by the court.

(r) In addition to any other penalty or disposition imposed by law, for any defendant sentenced to imprisonment pursuant to K.S.A. 21-4643, prior to its repeal, or K.S.A. 2014 Supp. 21-6627, and amendments thereto, for crimes committed on or after July 1, 2006, the court shall order that the defendant be electronically monitored upon release from imprisonment for the duration of the defendant's natural life and that the defendant shall reimburse the state for all or part of the cost of such monitoring as determined by the prisoner review board.

(s) Whenever the court has released the defendant on probation pursuant to subsection (a)(3), the defendant's supervising court services

1 officer, with the concurrence of the chief court services officer, may
2 impose the violation sanctions as provided in ~~subsection (e)(1)(B) of~~
3 K.S.A. 22-3716(c)(1)(B), and amendments thereto, without further order
4 of the court, unless:

5 (1) The court has specifically withheld this authority in its sentencing
6 order; or

7 (2) the defendant, after being apprised of the right to a revocation
8 hearing before the court pursuant to ~~subsection (b) of~~ K.S.A. 22-3716(b),
9 and amendments thereto, refuses to waive such right.

10 (t) Whenever the court has assigned the defendant to a community
11 correctional services program pursuant to subsection (a)(4), the defendant's
12 community corrections officer, with the concurrence of the community
13 corrections director, may impose the violation sanctions as provided in
14 ~~subsection (e)(1)(B) of~~ K.S.A. 22-3716(c)(1)(B), and amendments thereto,
15 without further order of the court unless:

16 (1) The court has specifically withheld this authority in its sentencing
17 order; or

18 (2) the defendant, after being apprised of the right to a revocation
19 hearing before the court pursuant to ~~subsection (b) of~~ K.S.A. 22-3716(b),
20 and amendments thereto, refuses to waive such right.

21 [Sec. 8. K.S.A. 2014 Supp. 21-6614 is hereby amended to read as
22 follows: 21-6614. (a) (1) Except as provided in subsections (b), (c), (d),
23 (e) and (f), any person convicted in this state of a traffic infraction,
24 cigarette or tobacco infraction, misdemeanor or a class D or E felony, or
25 for crimes committed on or after July 1, 1993, nondrug crimes ranked in
26 severity levels 6 through 10, or for crimes committed on or after July 1,
27 1993, but prior to July 1, 2012, any felony ranked in severity level 4 of the
28 drug grid, or for crimes committed on or after July 1, 2012, any felony
29 ranked in severity level 5 of the drug grid may petition the convicting
30 court for the expungement of such conviction or related arrest records if
31 three or more years have elapsed since the person: (A) Satisfied the
32 sentence imposed; or (B) was discharged from probation, a community
33 correctional services program, parole, postrelease supervision, conditional
34 release or a suspended sentence.

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

40 (b) Any person convicted of prostitution, as defined in K.S.A. 21-
41 3512, prior to its repeal, convicted of a violation of K.S.A. 2014 Supp. 21-
42 6419, and amendments thereto, or who entered into a diversion agreement
43 in lieu of further criminal proceedings for such violation, may petition the]

1 [convicting court for the expungement of such conviction or diversion
2 agreement and related arrest records if:

3 (1) One or more years have elapsed since the person satisfied the
4 sentence imposed or the terms of a diversion agreement or was discharged
5 from probation, a community correctional services program, parole,
6 postrelease supervision, conditional release or a suspended sentence; and

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

13 (c) Except as provided in subsections (e) and (f), no person may
14 petition for expungement until five or more years have elapsed since the
15 person satisfied the sentence imposed or the terms of a diversion
16 agreement or was discharged from probation, a community correctional
17 services program, parole, postrelease supervision, conditional release or a
18 suspended sentence, if such person was convicted of a class A, B or C
19 felony, or for crimes committed on or after July 1, 1993, if convicted of an
20 off-grid felony or any nondrug crime ranked in severity levels 1 through 5,
21 or for crimes committed on or after July 1, 1993, but prior to July 1, 2012,
22 any felony ranked in severity levels 1 through 3 of the drug grid, or for
23 crimes committed on or after July 1, 2012, any felony ranked in severity
24 levels 1 through 4 of the drug grid, or:

25 (1) Vehicular homicide, as defined in K.S.A. 21-3405, prior to its
26 repeal, or K.S.A. 2014 Supp. 21-5406, and amendments thereto, or as
27 prohibited by any law of another state which is in substantial conformity
28 with that statute;

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

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

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

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

43 (6) failing to stop at the scene of an accident and perform the duties]

1 [required by K.S.A. 8-1602, 8-1603, prior to its repeal, or 8-1604, and
2 amendments thereto, or required by a law of another state which is in-
3 substantial conformity with those statutes;

4 (7) violating the provisions of K.S.A. 40-3104, and amendments
5 thereto, relating to motor vehicle liability insurance coverage; or
6 (8) a violation of K.S.A. 21-3405b, prior to its repeal.

7 (d) No person may petition for expungement until seven or more
8 years have elapsed since the person satisfied the sentence imposed or the
9 terms of a diversion agreement or was discharged from probation, a
10 community correctional services program, parole, postrelease supervision,
11 conditional release or a suspended sentence, if such person was convicted
12 of a violation of K.S.A. 8-1567 or K.S.A. 2014 Supp. 8-1025, and
13 amendments thereto, including any diversion for such violation.

14 (e) There shall be no expungement of convictions for the following
15 offenses or of convictions for an attempt to commit any of the following
16 offenses:

17 (1) Rape, as defined in K.S.A. 21-3502, prior to its repeal, or K.S.A. 21-
18 2014 Supp. 21-5503, and amendments thereto;

19 (2) indecent liberties with a child or aggravated indecent liberties
20 with a child, as defined in K.S.A. 21-3503 or 21-3504, prior to their repeal,
21 or K.S.A. 2014 Supp. 21-5506, and amendments thereto;

22 (3) criminal sodomy, as defined in subsection (a)(2) or (a)(3) of
23 K.S.A. 21-3505(a)(2) or (a)(3), prior to its repeal, or subsection (a)(3) or
24 (a)(4) of K.S.A. 2014 Supp. 21-5504(a)(3) or (a)(4), and amendments
25 thereto;

26 (4) aggravated criminal sodomy, as defined in K.S.A. 21-3506, prior
27 to its repeal, or K.S.A. 2014 Supp. 21-5504, and amendments thereto;

28 (5) indecent solicitation of a child or aggravated indecent solicitation
29 of a child, as defined in K.S.A. 21-3510 or 21-3511, prior to their repeal,
30 or K.S.A. 2014 Supp. 21-5508, and amendments thereto;

31 (6) sexual exploitation of a child, as defined in K.S.A. 21-3516, prior
32 to its repeal, or K.S.A. 2014 Supp. 21-5510, and amendments thereto;

33 (7) aggravated incest, as defined in K.S.A. 21-3603, prior to its
34 repeal, or K.S.A. 2014 Supp. 21-5604, and amendments thereto;

35 (8) endangering a child or aggravated endangering a child, as defined
36 in K.S.A. 21-3608 or 21-3608a, prior to their repeal, or K.S.A. 2014 Supp.
37 21-5601, and amendments thereto;

38 (9) abuse of a child, as defined in K.S.A. 21-3609, prior to its repeal,
39 or K.S.A. 2014 Supp. 21-5602, and amendments thereto;

40 (10) capital murder, as defined in K.S.A. 21-3439, prior to its repeal,
41 or K.S.A. 2014 Supp. 21-5401, and amendments thereto;

42 (11) murder in the first degree, as defined in K.S.A. 21-3401, prior to
43 its repeal, or K.S.A. 2014 Supp. 21-5402, and amendments thereto;]

- 1 ~~[(12) murder in the second degree, as defined in K.S.A. 21-3402, prior~~
2 ~~to its repeal, or K.S.A. 2014 Supp. 21-5403, and amendments thereto;~~
3 ~~(13) voluntary manslaughter, as defined in K.S.A. 21-3403, prior to~~
4 ~~its repeal, or K.S.A. 2014 Supp. 21-5404, and amendments thereto;~~
5 ~~(14) involuntary manslaughter, as defined in K.S.A. 21-3404, prior to~~
6 ~~its repeal, or K.S.A. 2014 Supp. 21-5405, and amendments thereto;~~
7 ~~(15) sexual battery, as defined in K.S.A. 21-3517, prior to its repeal,~~
8 ~~or K.S.A. 2014 Supp. 21-5505, and amendments thereto, when the victim~~
9 ~~was less than 18 years of age at the time the crime was committed;~~
10 ~~(16) aggravated sexual battery, as defined in K.S.A. 21-3518, prior to~~
11 ~~its repeal, or K.S.A. 2014 Supp. 21-5505, and amendments thereto;~~
12 ~~(17) a violation of K.S.A. 8-2,144, and amendments thereto,~~
13 ~~including any diversion for such violation; or~~
14 ~~(18) any conviction for any offense in effect at any time prior to July~~
15 ~~1, 2011, that is comparable to any offense as provided in this subsection.~~
16 ~~(f) Notwithstanding any other law to the contrary, for any offender~~
17 ~~who is required to register as provided in the Kansas offender registration~~
18 ~~act, K.S.A. 22-4901 et seq., and amendments thereto, there shall be no~~
19 ~~expungement of any conviction or any part of the offender's criminal~~
20 ~~record while the offender is required to register as provided in the Kansas~~
21 ~~offender registration act.~~
22 ~~(g) (1) When a petition for expungement is filed, the court shall set a~~
23 ~~date for a hearing of such petition and shall cause notice of such hearing to~~
24 ~~be given to the prosecutor and the arresting law enforcement agency. The~~
25 ~~petition shall state the:~~
26 ~~(A) Defendant's full name;~~
27 ~~(B) full name of the defendant at the time of arrest, conviction or~~
28 ~~diversion, if different than the defendant's current name;~~
29 ~~(C) defendant's sex, race and date of birth;~~
30 ~~(D) crime for which the defendant was arrested, convicted or~~
31 ~~diverted;~~
32 ~~(E) date of the defendant's arrest, conviction or diversion; and~~
33 ~~(F) identity of the convicting court, arresting law enforcement~~
34 ~~authority or diverting authority.~~
35 ~~(2) Except as otherwise provided by law, a petition for expungement~~
36 ~~shall be accompanied by a docket fee in the amount of \$100 §176. On and~~
37 ~~after July 1, 2013, through July 1, 2015, the supreme court may impose a~~
38 ~~charge, not to exceed \$19 per case, to fund the costs of non-judicial~~
39 ~~personnel. The charge established in this section shall be the only fee~~
40 ~~collected or moneys in the nature of a fee collected for the case. Such~~
41 ~~charge shall only be established by an act of the legislature and no other~~
42 ~~authority is established by law or otherwise to collect a fee.~~
43 ~~(3) All petitions for expungement shall be docketed in the original]~~

1 [criminal action. Any person who may have relevant information about the
2 petitioner may testify at the hearing. The court may inquire into the
3 background of the petitioner and shall have access to any reports or
4 records relating to the petitioner that are on file with the secretary of
5 corrections or the prisoner review board.

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

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

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

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

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

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

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

28 (A) In any application for licensure as a private detective, private
29 detective agency, certification as a firearms trainer pursuant to K.S.A.
30 2014 Supp. 75-7b21, and amendments thereto, or employment as a
31 detective with a private detective agency, as defined by K.S.A. 75-7b01,
32 and amendments thereto; as security personnel with a private patrol
33 operator, as defined by K.S.A. 75-7b01, and amendments thereto; or with
34 an institution, as defined in K.S.A. 76-12a01, and amendments thereto, of
35 the Kansas department for aging and disability services;

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

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

42 (D) to aid in determining the petitioner's qualifications for executive
43 director of the Kansas racing and gaming commission, for employment]

1 [with the commission or for work in sensitive areas in parimutuel racing as
2 deemed appropriate by the executive director of the commission, or to aid
3 in determining qualifications for licensure or renewal of licensure by the
4 commission;

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

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

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

14 (H) 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;

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

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

22 (K) for applications received on and after July 1, 2006, to aid in
23 determining the petitioner's qualifications for a license to carry a concealed
24 weapon pursuant to the personal and family protection act, K.S.A. 2014
25 Supp. 75-7c01 et seq., and amendments thereto;

26 (3) the court, in the order of expungement, may specify other
27 circumstances under which the conviction is to be disclosed;

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

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

35 (f) Whenever a person is convicted of a crime, pleads guilty and pays
36 a fine for a crime, is placed on parole, postrelease supervision or
37 probation, is assigned to a community correctional services program, is
38 granted a suspended sentence or is released on conditional release, the
39 person shall be informed of the ability to expunge the arrest records or
40 conviction. Whenever a person enters into a diversion agreement, the
41 person shall be informed of the ability to expunge the diversion.

42 (k)(1) Subject to the disclosures required pursuant to subsection (i),
43 in any application for employment, license or other civil right or privilege,]

1 [or any appearance as a witness, a person whose arrest records, conviction
2 or diversion of a crime has been expunged under this statute may state that
3 such person has never been arrested, convicted or diverted of such crime.

4 (2) Notwithstanding the provisions of subsection (k)(1), and except as
5 provided in ~~subsection (e)(3)(A) of K.S.A. 2014 Supp. 21-6304(a)(3)(4),~~
6 and amendments thereto, the expungement of a prior felony conviction
7 does not relieve the individual of complying with any state or federal law
8 relating to the use, shipment, transportation, receipt or possession of
9 firearms by persons previously convicted of a felony.

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

15 (1) The person whose record was expunged;

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

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

22 (4) the secretary for aging and disability services, or a designee of the
23 secretary, for the purpose of obtaining information relating to employment
24 in an institution, as defined in K.S.A. 76-12a01, and amendments thereto,
25 of the Kansas department for aging and disability services of any person
26 whose record has been expunged;

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

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

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

38 (8) the Kansas lottery, and the request is accompanied by a statement
39 that the request is being made to aid in determining qualifications for
40 employment with the Kansas lottery or for work in sensitive areas within
41 the Kansas lottery as deemed appropriate by the executive director of the
42 Kansas lottery;

43 (9) the governor or the Kansas racing and gaming commission, or a]

1 [designee of the commission, and the request is accompanied by a
2 statement that the request is being made to aid in determining
3 qualifications for executive director of the commission, for employment
4 with the commission, for work in sensitive areas in pari-mutuel racing as
5 deemed appropriate by the executive director of the commission or for
6 licensure, renewal of licensure or continued licensure by the commission;

7 (10) the Kansas racing and gaming commission, or a designee of the
8 commission, and the request is accompanied by a statement that the
9 request is being made to aid in determining qualifications of the following
10 under the Kansas expanded lottery act: (A) Lottery gaming facility
11 managers and prospective managers, racetrack gaming facility managers
12 and prospective managers, licensees and certificate holders; and (B) their
13 officers, directors, employees, owners, agents and contractors;

14 (11) the Kansas sentencing commission;

15 (12) the state gaming agency, and the request is accompanied by a
16 statement that the request is being made to aid in determining
17 qualifications: (A) To be an employee of the state gaming agency; or (B)
18 to be an employee of a tribal gaming commission or to hold a license
19 issued pursuant to a tribal gaming compact;

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

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

30 (15) a law enforcement agency and the request is accompanied by a
31 statement that the request is being made to aid in determining eligibility
32 for employment as a law enforcement officer as defined by K.S.A. 22-
33 2202, and amendments thereto;

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

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

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

42 (B) providing information or documentation to the federal bureau of
43 investigation, in connection with the national instant criminal background]

- 1 ~~[check system, to determine a person's qualification to possess a firearm.~~
- 2 ~~(m) The provisions of subsection (l)(17) shall apply to records~~
- 3 ~~created prior to, on and after July 1, 2011.]~~
- 4 Sec. 9. K.S.A. 2014 Supp. 38-2310 is hereby amended to read as
- 5 follows: 38-2310. (a) All records of law enforcement officers and agencies
- 6 and municipal courts concerning an offense committed or alleged to have
- 7 been committed by a juvenile under 14 years of age shall be kept readily
- 8 distinguishable from criminal and other records and shall not be disclosed
- 9 to anyone except:
- 10 (1) The judge of the district court and members of the staff of the
- 11 court designated by the judge;
- 12 (2) parties to the proceedings and their attorneys;
- 13 (3) the Kansas department for children and families;
- 14 (4) the juvenile's court appointed special advocate, any officer of a
- 15 public or private agency or institution or any individual having custody of
- 16 a juvenile under court order or providing educational, medical or mental
- 17 health services to a juvenile;
- 18 (5) any educational institution, to the extent necessary to enable the
- 19 educational institution to provide the safest possible environment for its
- 20 pupils and employees;
- 21 (6) any educator, to the extent necessary to enable the educator to
- 22 protect the personal safety of the educator and the educator's pupils;
- 23 (7) law enforcement officers or county or district attorneys, or their
- 24 staff, when necessary for the discharge of their official duties;
- 25 (8) the central repository, as defined by K.S.A. 22-4701, and
- 26 amendments thereto, for use only as a part of the juvenile offender
- 27 information system established under K.S.A. 2014 Supp. 38-2326, and
- 28 amendments thereto;
- 29 (9) juvenile intake and assessment workers;
- 30 (10) ~~the juvenile justice authority~~ *department of corrections*;
- 31 (11) juvenile community corrections officers;
- 32 (12) any other person when authorized by a court order, subject to
- 33 any conditions imposed by the order; and
- 34 (13) as provided in subsection (c).
- 35 (b) The provisions of this section shall not apply to records
- 36 concerning:
- 37 (1) A violation, by a person 14 or more years of age, of any provision
- 38 of chapter 8 of the Kansas Statutes Annotated, and amendments thereto, or
- 39 of any city ordinance or county resolution which relates to the regulation
- 40 of traffic on the roads, highways or streets or the operation of self-
- 41 propelled or nonself-propelled vehicles of any kind;
- 42 (2) a violation, by a person 16 or more years of age, of any provision
- 43 of chapter 32 of the Kansas Statutes Annotated, and amendments thereto;

- 1 or
2 (3) an offense for which the juvenile is prosecuted as an adult.
3 (c) All records of law enforcement officers and agencies and
4 municipal courts concerning an offense committed or alleged to have been
5 committed by a juvenile 14 or more years of age shall be subject to the
6 same disclosure restrictions as the records of adults. Information
7 identifying victims and alleged victims of sex offenses, as defined in
8 article 35 of chapter 21 of the Kansas Statutes Annotated, prior to their
9 repeal, or article 55 of chapter 21 of the Kansas Statutes Annotated, or
10 K.S.A. 2014 Supp. 21-6419 through 21-6421, and amendments thereto,
11 shall not be disclosed or open to public inspection under any
12 circumstances. Nothing in this section shall prohibit the victim or any
13 alleged victim of any sex offense from voluntarily disclosing such victim's
14 identity.
15 (d) Relevant information, reports and records, shall be made available
16 to the department of corrections upon request and a showing that the
17 former juvenile has been convicted of a crime and placed in the custody of
18 the secretary of corrections.
19 (e) All records, reports and information obtained as a part of the
20 juvenile intake and assessment process for juveniles shall be confidential,
21 and shall not be disclosed except as provided by statutory law and rules
22 and regulations promulgated by the commissioner thereunder.
23 (1) Any court of record may order the disclosure of such records,
24 reports and other information to any person or entity.
25 (2) The head of any juvenile intake and assessment program, certified
26 by the commissioner of juvenile justice, may authorize disclosure of such
27 records, reports and other information to:
28 (A) A person licensed to practice the healing arts who has before that
29 person a juvenile whom the person reasonably suspects may be abused or
30 neglected;
31 (B) a court-appointed special advocate for a juvenile or an agency
32 having the legal responsibility or authorization to care for, treat or
33 supervise a juvenile;
34 (C) a parent or other person responsible for the welfare of a juvenile,
35 or such person's legal representative, with protection for the identity of
36 persons reporting and other appropriate persons;
37 (D) the juvenile, the attorney and a guardian ad litem, if any, for such
38 juvenile;
39 (E) the police or other law enforcement agency;
40 (F) an agency charged with the responsibility of preventing or
41 treating physical, mental or emotional abuse or neglect or sexual abuse of
42 children, if the agency requesting the information has standards of
43 confidentiality as strict or stricter than the requirements of the Kansas code

1 for care of children or the revised Kansas juvenile justice code, whichever
2 is applicable;

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

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

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

15 (J) a citizen review board pursuant to K.S.A. 2014 Supp. 38-2207,
16 and amendments thereto;

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

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

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

24 Sec. 10. K.S.A. 2014 Supp. 39-709, as amended by section 9 of 2015
25 House Bill No. 2258, is hereby amended to read as follows: 39-709. (a)
26 *General eligibility requirements for assistance for which federal moneys*
27 *are expended.* Subject to the additional requirements below, assistance in
28 accordance with plans under which federal moneys are expended may be
29 granted to any needy person who:

30 (1) Has insufficient income or resources to provide a reasonable
31 subsistence compatible with decency and health. Where a husband and
32 wife or cohabiting partners are living together, the combined income or
33 resources of both shall be considered in determining the eligibility of
34 either or both for such assistance unless otherwise prohibited by law. The
35 secretary, in determining need of any applicant for or recipient of
36 assistance shall not take into account the financial responsibility of any
37 individual for any applicant or recipient of assistance unless such applicant
38 or recipient is such individual's spouse, cohabiting partner or such
39 individual's minor child or minor stepchild if the stepchild is living with
40 such individual. The secretary in determining need of an individual may
41 provide such income and resource exemptions as may be permitted by
42 federal law. For purposes of eligibility for temporary assistance for needy
43 families, for food assistance and for any other assistance provided through

1 the Kansas department for children and families under which federal
2 moneys are expended, the secretary for children and families shall
3 consider one motor vehicle owned by the applicant for assistance,
4 regardless of the value of such vehicle, as exempt personal property and
5 shall consider any equity in any boat, personal water craft, recreational
6 vehicle, recreational off-highway vehicle or all-terrain vehicle, as defined
7 by K.S.A. 8-126, and amendments thereto, or any additional motor vehicle
8 owned by the applicant for assistance to be a nonexempt resource of the
9 applicant for assistance except that any additional motor vehicle used by
10 the applicant, the applicant's spouse or the applicant's cohabiting partner
11 for the primary purpose of earning income may be considered as exempt
12 personal property in the secretary's discretion.

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

15 (b) *Temporary assistance for needy families.* Assistance may be
16 granted under this act to any dependent child, or relative, subject to the
17 general eligibility requirements as set out in subsection (a), who resides in
18 the state of Kansas or whose parent or other relative with whom the child
19 is living resides in the state of Kansas. Such assistance shall be known as
20 temporary assistance for needy families. On and after January 1, 2017, the
21 department shall conduct an electronic check for any false information
22 provided on an application for TANF and other benefits programs
23 administered by the department. Where the husband and wife or
24 cohabiting partners are living together, both shall register for work under
25 the program requirements for temporary assistance for needy families in
26 accordance with criteria and guidelines prescribed by rules and regulations
27 of the secretary.

28 (1) As used in this subsection, "family group" or "household" means
29 the applicant or recipient for TANF, child care subsidy or employment
30 services and all individuals living together in which there is a relationship
31 of legal responsibility or a qualifying caretaker relationship. This will
32 include a cohabiting boyfriend or girlfriend living with the person legally
33 responsible for the child. The family group shall not be eligible for TANF
34 if the family group contains at least one adult member who has received
35 TANF, including the federal TANF assistance received in any other state,
36 for 36 calendar months beginning on and after October 1, 1996, unless the
37 secretary determines a hardship exists and grants an extension allowing
38 receipt of TANF until the 48-month limit is reached. No extension beyond
39 48 months shall be granted. Hardship provisions for a recipient include:

40 (A) Is a caretaker of a disabled family member living in the
41 household;

42 (B) has a disability which precludes employment on a long-term basis
43 or requires substantial rehabilitation;

1 (C) needs a time limit extension to overcome the effects of domestic
2 violence/sexual assault;

3 (D) is involved with prevention and protection services (PPS) and has
4 an open social service plan; or

5 (E) is determined by the 36th month to have an extreme hardship other
6 than what is designated in criteria listed in subparagraphs (A) through (E).
7 This determination will be made by the executive review team.

8 (2) All adults applying for TANF shall be required to complete a
9 work program assessment as specified by the Kansas department for
10 children and families, including those who have been disqualified for or
11 denied TANF due to non-cooperation, drug testing requirements or fraud.
12 Adults who are not otherwise eligible for TANF, such as ineligible aliens,
13 relative/non-relative caretakers and adults receiving supplemental security
14 income are not required to complete the assessment process. During the
15 application processing period, applicants must complete at least one
16 module or its equivalent of the work program assessment to be considered
17 eligible for TANF benefits, unless good cause is found to be exempt from
18 the requirements. Good cause exemptions shall only include:

19 (A) The applicant can document an existing certification verifying
20 completion of the work program assessment;

21 (B) the applicant has a valid offer of employment or is employed a
22 minimum of 20 hours a week;

23 (C) the applicant is a parenting teen without a GED or high school
24 diploma;

25 (D) the applicant is enrolled in job corps;

26 (E) the applicant is working with a refugee social services agency; or

27 (F) the applicant has completed the work program assessment within
28 the last 12 months.

29 (3) The department for children and families shall maintain a
30 sufficient level of dedicated work program staff to enable the agency to
31 conduct work program case management services to TANF recipients in a
32 timely manner and in full accordance with state law and agency policy.

33 (4) TANF mandatory work program applicants and recipients shall
34 participate in work components that lead to competitive, integrated
35 employment. Components are defined by the federal government as being
36 either primary or secondary. In order to meet federal work participation
37 requirements, households need to meet at least 30 hours of participation
38 per week, at least 20 hours of which need to be primary and at least 10
39 hours may be secondary components in one parent households where the
40 youngest child is six years of age or older. Participation hours shall be 55
41 hours in two parent households (35 hours per week if child care is not
42 used). The maximum assignment is 40 hours per week per individual. For
43 two parent families to meet the federal work participation rate both parents

1 must participate in a combined total of 55 hours per week, 50 hours of
2 which must be in primary components, or one or both parents could be
3 assigned a combined total of 35 hours per week (30 hours of which must
4 be primary components) if department for children and families paid child
5 care is not received by the family. Single parent families with a child under
6 age six meet the federal participation requirement if the parent is engaged
7 in work or work activities for at least 20 hours per week in a primary work
8 component. The following components meet federal definitions of primary
9 hours of participation: Full or part-time employment, apprenticeship, work
10 study, self-employment, job corps, subsidized employment, work
11 experience sites, on-the-job training, supervised community service,
12 vocational education, job search and job readiness. Secondary components
13 include: Job skills training, education directly related to employment such
14 as adult basic education and English as a second language, and completion
15 of a high school diploma or GED.

16 (5) A parent or other adult caretaker personally providing care for a
17 child under the age of three months in their TANF household is exempt
18 from work participation activities until the month the child turns three
19 months of age. Such three-month limitation shall not apply to a parent or
20 other adult caretaker who is personally providing care for a child born
21 significantly premature, with serious medical conditions or with a
22 disability as defined by the secretary, in consultation with the secretary of
23 health and environment, and adopted in the rules and regulations. The
24 three-month period is defined as two consecutive months starting with the
25 month after childbirth. The exemption for caring for a child under three
26 months cannot be claimed:

27 (A) By either parent when two parents are in the home and the
28 household meets the two-parent definition for federal reporting purposes;

29 (B) by one parent or caretaker when the other parent or caretaker is in
30 the home, and available, capable and suitable to provide care and the
31 household does not meet the two-parent definition for federal reporting
32 purposes;

33 (C) by a person age 19 or younger when such person is pregnant or a
34 parent of a child in the home and the person does not possess a high school
35 diploma or its equivalent. Such person shall become exempt the month
36 such person turns age 20;

37 (D) by any adult in the TANF assistance plan when at least one adult
38 has reached the 36 months of TANF cash assistance; or

39 (E) by any person assigned to a work participation activity for
40 substance use disorders.

41 (6) TANF work experience placements shall be reviewed after 90
42 days and are limited to six months per 48-month lifetime limit. A client's
43 progress shall be reviewed prior to each new placement regardless of the

1 length of time they are at the work experience site.

2 (7) TANF participants with disabilities shall engage in required
3 employment activities to the maximum extent consistent with their
4 abilities. TANF participants shall provide current documentation by a
5 qualified medical practitioner that details the abilities to engage in
6 employment and any limitations in work activities along with the expected
7 duration of such limitations. Disability is defined as a physical or mental
8 impairment constituting or resulting in a substantial impediment to
9 employment for such individual.

10 (8) Non-cooperation is the failure of the applicant or recipient to
11 comply with all requirements provided in state and federal law, federal and
12 state rules and regulations and agency policy. The period of ineligibility
13 for TANF benefits based on non-cooperation with work programs shall be
14 as follows:

15 (A) For a first penalty, three months and full cooperation with work
16 program activities;

17 (B) for a second penalty, six months and full cooperation with work
18 program activities;

19 (C) for a third penalty, one year and full cooperation with work
20 program activities; and

21 (D) for a fourth or subsequent penalty, 10 years.

22 (9) Individuals that have not cooperated with TANF work programs
23 shall be ineligible to participate in the food assistance program. The
24 comparable penalty shall be applied to only the individual in the food
25 assistance program who failed to comply with the TANF work
26 requirement. The agency shall impose the same penalty to the member of
27 the household who failed to comply with TANF requirements. The penalty
28 periods are three months, six months, one year, or 10 years.

29 (10) Non-cooperation is the failure of the applicant or recipient to
30 comply with all requirements provided in state and federal law, federal and
31 state rules and regulations and agency policy. The period of ineligibility
32 for child care subsidy or TANF benefits based on parents' non-cooperation
33 with child support services shall be as follows:

34 (A) For the first penalty, three months and cooperation with child
35 support services prior to regaining eligibility;

36 (B) for a second penalty, six months and cooperation with child
37 support services prior to regaining eligibility;

38 (C) for a third penalty, one year and cooperation with child support
39 services prior to regaining eligibility; and

40 (D) for a fourth penalty, 10 years.

41 (11) Individuals that have not cooperated without good cause with
42 child support services shall be ineligible to participate in the food
43 assistance program. The period of disqualification ends once it has been

1 determined that such individual is cooperating with child support services.

2 (12) Any individual who is found to have committed fraud or is
3 found guilty of the crime of theft pursuant to K.S.A. 39-720 and K.S.A.
4 2014 Supp. 21-5801, and amendments thereto, in either the TANF or child
5 care program shall render all adults in the family unit ineligible for TANF
6 assistance. Adults in the household who were determined to have
7 committed fraud or were convicted of the crime of theft pursuant to K.S.A.
8 39-720 and K.S.A. 2014 Supp. 21-5801, and amendments thereto, shall
9 render themselves and all adult household members ineligible for their
10 lifetime for TANF, even if fraud was committed in only one program.
11 Households who have been determined to have committed fraud or were
12 convicted of the crime of theft pursuant to K.S.A. 39-720 and K.S.A. 2014
13 Supp. 21-5801, and amendments thereto, shall be required to name a
14 protective payee as approved by the secretary or the secretary's designee to
15 administer TANF benefits or food assistance on behalf of the children. No
16 adult in a household may have access to the TANF cash assistance benefit.

17 (13) (A) Food assistance shall not be provided to any person
18 convicted of a felony offense occurring on or after July 1, 2015, which
19 includes as an element of such offense the manufacture, cultivation,
20 distribution, possession or use of a controlled substance or controlled
21 substance analog. For food assistance, the individual shall be permanently
22 disqualified if they have been convicted of a state or federal felony offense
23 occurring on or after July 1, 2015, involving possession or use of a
24 controlled substance or controlled substance analog.

25 (B) Notwithstanding the provisions of subparagraph (A), an
26 individual shall be eligible for food assistance if the individual enrolls in
27 and participates in a drug treatment program approved by the secretary,
28 submits to and passes a drug test and agrees to submit to drug testing if
29 requested by the department pursuant to a drug testing plan.

30 An individual's failure to submit to testing or failure to successfully
31 pass a drug test shall result in ineligibility for food assistance until a drug
32 test is successfully passed. Failure to successfully complete a drug
33 treatment program shall result in ineligibility for food assistance until a
34 drug treatment plan approved by the secretary is successfully completed,
35 the individual passes a drug test and agrees to submit to drug testing if
36 requested by the department pursuant to a drug testing plan.

37 (C) The provisions of subparagraph (B) shall not apply to any
38 individual who has been convicted for a second or subsequent felony
39 offense as provided in subparagraph (A).

40 (14) No TANF cash assistance shall be used to purchase alcohol,
41 cigarettes, tobacco products, lottery tickets, concert tickets, professional or
42 collegiate sporting event tickets or tickets for other entertainment events
43 intended for the general public or sexually oriented adult materials. No

1 TANF cash assistance shall be used in any retail liquor store, casino,
2 gaming establishment, jewelry store, tattoo parlor, massage parlor, body
3 piercing parlor, spa, nail salon, lingerie shop, tobacco paraphernalia store,
4 vapor cigarette store, psychic or fortune telling business, bail bond
5 company, video arcade, movie theater, swimming pool, cruise ship, theme
6 park, dog or horse racing facility, parimutuel facility, or sexually oriented
7 business or any retail establishment which provides adult-oriented
8 entertainment in which performers disrobe or perform in an unclothed
9 state for entertainment, or in any business or retail establishment where
10 minors under age 18 are not permitted. TANF cash assistance transactions
11 for cash withdrawals from automated teller machines shall be limited to
12 \$25, per transaction and to one transaction per day. No TANF cash
13 assistance shall be used for purchases at points of sale outside the state of
14 Kansas.

15 (15) (A) The secretary for children and families shall place a
16 photograph of the recipient, if agreed to by such recipient of public
17 assistance, on any Kansas benefits card issued by the Kansas department
18 for children and families that the recipient uses in obtaining food, cash or
19 any other services. When a recipient of public assistance is a minor or
20 otherwise incapacitated individual, a parent or legal guardian of such
21 recipient may have a photograph of such parent or legal guardian placed
22 on the card.

23 (B) Any Kansas benefits card with a photograph of a recipient shall
24 be valid for voting purposes as a public assistance identification card in
25 accordance with the provisions of K.S.A. 25-2908, and amendments
26 thereto.

27 (C) As used in this paragraph and its subparagraphs, "Kansas benefits
28 card" means any card issued to provide food assistance, cash assistance or
29 child care assistance, including, but not limited to, the vision card, EBT
30 card and Kansas benefits card.

31 (16) The secretary for children and families shall adopt rules and
32 regulations:

33 (A) In determining eligibility for the child care subsidy program,
34 including an income of a cohabiting partner in a child care household; and

35 (B) in determining and maintaining eligibility for non-TANF child
36 care, requiring that all included adults shall be employed a minimum of 20
37 hours per week or more as defined by the secretary or meet the following
38 specific qualifying exemptions:

39 (i) Adults who are not capable of meeting the requirement due to a
40 documented physical or mental condition;

41 (ii) adults who are former TANF recipients who need child care for
42 employment after their TANF case has closed and earned income is a
43 factor in the closure in the two months immediately following TANF

1 closure;

2 (iii) adult parents included in a case in which the only child receiving
3 benefits is the child of a minor parent who is working on completion of
4 high school or obtaining a GED; or
5 (iv) adults who are participants in a mandatory food assistance
6 education and training program.

7 The department for children and families shall provide child care for
8 the pursuit of any degree or certification if the occupation has at least an
9 average job outlook listed in the occupational outlook of the U.S.
10 department of labor, bureau of labor statistics. For occupations with less
11 than an average job outlook, educational plans shall require approval of
12 the secretary or secretary's designee. Child care may also be approved if
13 the student provides verification of a specific job offer that will be
14 available to such student upon completion of the program. Child care for
15 post-secondary education shall be allowed for a lifetime maximum of 24
16 months per adult. The 24 months may not have to be consecutive. Students
17 shall be engaged in paid employment for a minimum of 15 hours per
18 week. In a two-parent adult household, child care would not be allowed if
19 both parents are adults and attending a formal education or training
20 program at the same time. The household may choose which one of the
21 parents is participating as a post-secondary student. The other parent shall
22 meet another approvable criteria for child care subsidy.

23 (17) The secretary for children and families is prohibited from
24 requesting or implementing a waiver or program from the U.S. department
25 of agriculture for the time limited assistance provisions for able-bodied
26 adults aged 18 through 49 without dependents in a household under the
27 food assistance program. The time on food assistance for able-bodied
28 adults aged 18 through 49 without dependents in the household shall be
29 limited to three months in a 36-month period if such adults are not meeting
30 the requirements imposed by the U.S. department of agriculture that they
31 must work for at least 20 hours per week or participate in a federally
32 approved work program or its equivalent.

33 (18) Eligibility for the food assistance program shall be limited to
34 those individuals who are citizens or who meet qualified non-citizen status
35 as determined by U.S. department of agriculture. Non-citizen individuals
36 who are unable or unwilling to provide qualifying immigrant
37 documentation, as defined by the U.S. department of agriculture, residing
38 within a household shall not be included when determining the household's
39 size for the purposes of assigning a benefit level to the household for food
40 assistance or comparing the household's monthly income with the income
41 eligibility standards. The gross non-exempt earned and unearned income
42 and resources of disqualified individuals shall be counted in its entirety as
43 available to the remaining household members.

1 (19) The secretary for children and families shall not enact the state
2 option from the U.S. department of agriculture for broad-based categorical
3 eligibility for households applying for food assistance according to the
4 provisions of 7 C.F.R. § 273.2(j)(2)(ii).

5 (20) No federal or state funds shall be used for television, radio or
6 billboard advertisements that are designed to promote food assistance
7 benefits and enrollment. No federal or state funding shall be used for any
8 agreements with foreign governments designed to promote food
9 assistance.

10 (21) (A) The secretary for children and families shall not apply gross
11 income standards for food assistance higher than the standards specified in
12 7 U.S.C. § 2014(c) unless expressly required by federal law. Categorical
13 eligibility exempting households from such gross income standards
14 requirements shall not be granted for any non-cash, in-kind or other
15 benefit unless expressly required by federal law.

16 (B) The secretary for children and families shall not apply resource
17 limits standards for food assistance that are higher than the standards
18 specified in 7 U.S.C. § 2014(g)(1) unless expressly required by federal
19 law. Categorical eligibility exempting households from such resource
20 limits shall not be granted for any non-cash, in-kind or other benefit unless
21 expressly required by federal law.

22 (c) *Temporary assistance for needy families; assignment of support*
23 *rights and limited power of attorney.* By applying for or receiving
24 temporary assistance for needy families such applicant or recipient shall be
25 deemed to have assigned to the secretary on behalf of the state any
26 accrued, present or future rights to support from any other person such
27 applicant may have in such person's own behalf or in behalf of any other
28 family member for whom the applicant is applying for or receiving aid. In
29 any case in which an order for child support has been established and the
30 legal custodian and obligee under the order surrenders physical custody of
31 the child to a caretaker relative without obtaining a modification of legal
32 custody and support rights on behalf of the child are assigned pursuant to
33 this section, the surrender of physical custody and the assignment shall
34 transfer, by operation of law, the child's support rights under the order to
35 the secretary on behalf of the state. Such assignment shall be of all
36 accrued, present or future rights to support of the child surrendered to the
37 caretaker relative. The assignment of support rights shall automatically
38 become effective upon the date of approval for or receipt of such aid
39 without the requirement that any document be signed by the applicant,
40 recipient or obligee. By applying for or receiving temporary assistance for
41 needy families, or by surrendering physical custody of a child to a
42 caretaker relative who is an applicant or recipient of such assistance on the
43 child's behalf, the applicant, recipient or obligee is also deemed to have

1 appointed the secretary, or the secretary's designee, as an attorney-in-fact
2 to perform the specific act of negotiating and endorsing all drafts, checks,
3 money orders or other negotiable instruments representing support
4 payments received by the secretary in behalf of any person applying for,
5 receiving or having received such assistance. This limited power of
6 attorney shall be effective from the date the secretary approves the
7 application for aid and shall remain in effect until the assignment of
8 support rights has been terminated in full.

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

25 (2) For the purposes of medical assistance eligibility determinations
26 on or after July 1, 2004, if an applicant or recipient owns property in joint
27 tenancy with some other party and the applicant or recipient of medical
28 assistance has restricted or conditioned their interest in such property to a
29 specific and discrete property interest less than 100%, then such
30 designation will cause the full value of the property to be considered an
31 available resource to the applicant or recipient. Medical assistance
32 eligibility for receipt of benefits under the title XIX of the social security
33 act, commonly known as medicaid, shall not be expanded, as provided for
34 in the patient protection and affordable care act, public law 111-148, 124
35 stat. 119, and the health care and education reconciliation act of 2010,
36 public law 111-152, 124 stat. 1029, unless the legislature expressly
37 consents to, and approves of, the expansion of medicaid services by an act
38 of the legislature.

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

43 (B) If a trust has discretionary language, the trust shall be considered

1 to be an available resource to the extent, using the full extent of discretion,
2 the trustee may make any of the income or principal available to the
3 applicant or recipient of medical assistance. Any such discretionary trust
4 shall be considered an available resource unless: (i) At the time of creation
5 or amendment of the trust, the trust states a clear intent that the trust is
6 supplemental to public assistance; and (ii) the trust: (a) Is funded from
7 resources of a person who, at the time of such funding, owed no duty of
8 support to the applicant or recipient of medical assistance; or (b) is funded
9 not more than nominally from resources of a person while that person
10 owed a duty of support to the applicant or recipient of medical assistance.

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

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

35 (B) When an applicant or recipient of medical assistance is a party to
36 a written contract for personal services being provided by a licensed health
37 professional or facility and such contract involves health and welfare
38 monitoring, pharmacy assistance, case management, communication with
39 medical, health or other professionals, or other activities related to home
40 health care, long term care, medical assistance benefits or other related
41 issues, any moneys paid in advance of receipt of services for such
42 contracts shall be considered to be an available resource.

43 (5) Any trust may be amended if such amendment is permitted by the

1 Kansas uniform trust code.

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

17 (f) *Medical assistance; assignment of rights to medical support and*
18 *limited power of attorney; recovery from estates of deceased recipients.* (1)
19 (A) Except as otherwise provided in K.S.A. 39-786 and 39-787, and
20 amendments thereto, or as otherwise authorized on and after September
21 30, 1989, under section 303 of the federal medicare catastrophic coverage
22 act of 1988, whichever is applicable, by applying for or receiving medical
23 assistance under a medical care plan in which federal funds are expended,
24 any accrued, present or future rights to support and any rights to payment
25 for medical care from a third party of an applicant or recipient and any
26 other family member for whom the applicant is applying shall be deemed
27 to have been assigned to the secretary on behalf of the state. The
28 assignment shall automatically become effective upon the date of approval
29 for such assistance without the requirement that any document be signed
30 by the applicant or recipient. By applying for or receiving medical
31 assistance the applicant or recipient is also deemed to have appointed the
32 secretary, or the secretary's designee, as an attorney in fact to perform the
33 specific act of negotiating and endorsing all drafts, checks, money orders
34 or other negotiable instruments, representing payments received by the
35 secretary ~~on~~ on behalf of any person applying for, receiving or having
36 received such assistance. This limited power of attorney shall be effective
37 from the date the secretary approves the application for assistance and
38 shall remain in effect until the assignment has been terminated in full. The
39 assignment of any rights to payment for medical care from a third party
40 under this subsection shall not prohibit a health care provider from directly
41 billing an insurance carrier for services rendered if the provider has not
42 submitted a claim covering such services to the secretary for payment.
43 Support amounts collected on behalf of persons whose rights to support

1 are assigned to the secretary only under this subsection and no other shall
2 be distributed pursuant to K.S.A. 39-756(d), and amendments thereto,
3 except that any amounts designated as medical support shall be retained by
4 the secretary for repayment of the unreimbursed portion of assistance.
5 Amounts collected pursuant to the assignment of rights to payment for
6 medical care from a third party shall also be retained by the secretary for
7 repayment of the unreimbursed portion of assistance.

8 (B) Notwithstanding the provisions of subparagraph (A), the
9 secretary of health and environment, or the secretary's designee, is hereby
10 authorized to and shall exercise any of the powers specified in
11 subparagraph (A) in relation to performance of such secretary's duties
12 pertaining to medical subrogation, estate recovery or any other duties
13 assigned to such secretary in article 74 of chapter 75 of the Kansas Statutes
14 Annotated, and amendments thereto.

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

1 assistance recovery program under this subsection.

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

8 (A) If an individual receives any medical assistance before July 1,
9 2004, pursuant to article 7 of chapter 39 of the Kansas Statutes Annotated,
10 and amendments thereto, which forms the basis for a claim under
11 paragraph (2), such claim is limited to the individual's probatable estate as
12 defined by applicable law; and

13 (B) if an individual receives any medical assistance on or after July 1,
14 2004, pursuant to article 7 of chapter 39 of the Kansas Statutes Annotated,
15 and amendments thereto, which forms the basis for a claim under
16 paragraph (2), such claim shall apply to the individual's medical assistance
17 estate. The medical assistance estate is defined as including all real and
18 personal property and other assets in which the deceased individual had
19 any legal title or interest immediately before or at the time of death to the
20 extent of that interest or title. The medical assistance estate includes,
21 without limitation assets conveyed to a survivor, heir or assign of the
22 deceased recipient through joint tenancy, tenancy in common,
23 survivorship, transfer-on-death deed, payable-on-death contract, life estate,
24 trust, annuities or similar arrangement.

25 (4) The secretary of health and environment or the secretary's
26 designee is authorized to file and enforce a lien against the real property of
27 a recipient of medical assistance in certain situations, subject to all prior
28 liens of record and transfers for value to a bona fide purchaser of record.
29 The lien must be filed in the office of the register of deeds of the county
30 where the real property is located within one year from the date of death of
31 the recipient and must contain the legal description of all real property in
32 the county subject to the lien.

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

36 (B) The secretary of health and environment or the secretary's
37 designee may place a lien on any interest in real property owned by a
38 recipient of medical assistance during the lifetime of such recipient. Such
39 lien may be filed only after notice and an opportunity for a hearing has
40 been given. Such lien may be enforced only upon competent medical
41 testimony that the recipient cannot reasonably be expected to be
42 discharged and returned home. A six-month period of compensated
43 inpatient care at a nursing home or other medical institution shall

1 constitute a determination by the department of health and environment
2 that the recipient cannot reasonably be expected to be discharged and
3 returned home. To return home means the recipient leaves the nursing or
4 medical facility and resides in the home on which the lien has been placed
5 for a continuous period of at least 90 days without being readmitted as an
6 inpatient to a nursing or medical facility. The amount of the lien shall be
7 for the amount of assistance paid by the department of health and
8 environment until the time of the filing of the lien and for any amount paid
9 thereafter for such medical assistance to the recipient. After the lien is filed
10 against any real property owned by the recipient, such lien will be
11 dissolved if the recipient is discharged, returns home and resides upon the
12 real property to which the lien is attached for a continuous period of at
13 least 90 days without being readmitted as an inpatient to a nursing or
14 medical facility. If the recipient is readmitted as an inpatient to a nursing or
15 medical facility for a continuous period of less than 90 days, another
16 continuous period of at least 90 days shall be completed prior to
17 dissolution of the lien.

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

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

25 (B) when there is no child of the recipient, natural or adopted, who is
26 20 years of age or less residing in the home;

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

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

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

36 (A) The lien is satisfied. The recipient, the heirs, personal
37 representative or assigns of the recipient may discharge such lien at any
38 time by paying the amount of the lien to the secretary of health and
39 environment or the secretary's designee;

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

42 (C) the value of the real property is consumed by the lien, at which
43 time the secretary of health and environment or the secretary's designee

1 may force the sale for the real property to satisfy the lien.

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

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

16 (9) All rules and regulations adopted on and after July 1, 2013, and
17 prior to July 1, 2014, to implement this subsection shall continue to be
18 effective and shall be deemed to be duly adopted rules and regulations of
19 the secretary of health and environment until revised, amended, revoked or
20 nullified pursuant to law.

21 (g) *Placement under the revised Kansas code for care of children or*
22 *revised Kansas juvenile justice code; assignment of support rights and*
23 *limited power of attorney.* In any case in which the secretary for children
24 and families pays for the expenses of care and custody of a child pursuant
25 to K.S.A. 2014 Supp. 38-2201 et seq. or 38-2301 et seq., and amendments
26 thereto, including the expenses of any foster care placement, an
27 assignment of all past, present and future support rights of the child in
28 custody possessed by either parent or other person entitled to receive
29 support payments for the child is, by operation of law, conveyed to the
30 secretary. Such assignment shall become effective upon placement of a
31 child in the custody of the secretary or upon payment of the expenses of
32 care and custody of a child by the secretary without the requirement that
33 any document be signed by the parent or other person entitled to receive
34 support payments for the child. When the secretary pays for the expenses
35 of care and custody of a child or a child is placed in the custody of the
36 secretary, the parent or other person entitled to receive support payments
37 for the child is also deemed to have appointed the secretary, or the
38 secretary's designee, as attorney in fact to perform the specific act of
39 negotiating and endorsing all drafts, checks, money orders or other
40 negotiable instruments representing support payments received by the
41 secretary on behalf of the child. This limited power of attorney shall be
42 effective from the date the assignment to support rights becomes effective
43 and shall remain in effect until the assignment of support rights has been

1 terminated in full.

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

11 (i) If the applicant or recipient of temporary assistance for needy
12 families is a mother of the dependent child, as a condition of the mother's
13 eligibility for temporary assistance for needy families the mother shall
14 identify by name and, if known, by current address the father of the
15 dependent child except that the secretary may adopt by rules and
16 regulations exceptions to this requirement in cases of undue hardship. Any
17 recipient of temporary assistance for needy families who fails to cooperate
18 with requirements relating to child support services under criteria and
19 guidelines prescribed by rules and regulations of the secretary shall be
20 subject to a penalty established by the secretary.

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

43 (k) (1) A program of drug screening for applicants for cash assistance

1 as a condition of eligibility for cash assistance and persons receiving cash
2 assistance as a condition of continued receipt of cash assistance shall be
3 established, subject to applicable federal law, by the secretary for children
4 and families on and before January 1, 2014. Under such program of drug
5 screening, the secretary for children and families shall order a drug
6 screening of an applicant for or a recipient of cash assistance at any time
7 when reasonable suspicion exists that such applicant for or recipient of
8 cash assistance is unlawfully using a controlled substance or controlled
9 substance analog. The secretary for children and families may use any
10 information obtained by the secretary for children and families to
11 determine whether such reasonable suspicion exists, including, but not
12 limited to, an applicant's or recipient's demeanor, missed appointments and
13 arrest or other police records, previous employment or application for
14 employment in an occupation or industry that regularly conducts drug
15 screening, termination from previous employment due to unlawful use of a
16 controlled substance or controlled substance analog or prior drug screening
17 records of the applicant or recipient indicating unlawful use of a controlled
18 substance or controlled substance analog.

19 (2) Any applicant for or recipient of cash assistance whose drug
20 screening results in a positive test may request that the drug screening
21 specimen be sent to a different drug testing facility for an additional drug
22 screening. Any applicant for or recipient of cash assistance who requests
23 an additional drug screening at a different drug testing facility shall be
24 required to pay the cost of drug screening. Such applicant or recipient who
25 took the additional drug screening and who tested negative for unlawful
26 use of a controlled substance and controlled substance analog shall be
27 reimbursed for the cost of such additional drug screening.

28 (3) Any applicant for or recipient of cash assistance who tests
29 positive for unlawful use of a controlled substance or controlled substance
30 analog shall be required to complete a substance abuse treatment program
31 approved by the secretary for children and families, secretary of labor or
32 secretary of commerce, and a job skills program approved by the secretary
33 for children and families, secretary of labor or secretary of commerce.
34 Subject to applicable federal laws, any applicant for or recipient of cash
35 assistance who fails to complete or refuses to participate in the substance
36 abuse treatment program or job skills program as required under this
37 subsection shall be ineligible to receive cash assistance until completion of
38 such substance abuse treatment and job skills programs. Upon completion
39 of both substance abuse treatment and job skills programs, such applicant
40 for or recipient of cash assistance may be subject to periodic drug
41 screening, as determined by the secretary for children and families. Upon a
42 second positive test for unlawful use of a controlled substance or
43 controlled substance analog, a recipient of cash assistance shall be ordered

1 to complete again a substance abuse treatment program and job skills
2 program, and shall be terminated from cash assistance for a period of 12
3 months, or until such recipient of cash assistance completes both substance
4 abuse treatment and job skills programs, whichever is later. Upon a third
5 positive test for unlawful use of a controlled substance or controlled
6 substance analog, a recipient of cash assistance shall be terminated from
7 cash assistance, subject to applicable federal law.

8 (4) If an applicant for or recipient of cash assistance is ineligible for
9 or terminated from cash assistance as a result of a positive test for
10 unlawful use of a controlled substance or controlled substance analog, and
11 such applicant for or recipient of cash assistance is the parent or legal
12 guardian of a minor child, an appropriate protective payee shall be
13 designated to receive cash assistance on behalf of such child. Such parent
14 or legal guardian of the minor child may choose to designate an individual
15 to receive cash assistance for such parent's or legal guardian's minor child,
16 as approved by the secretary for children and families. Prior to the
17 designated individual receiving any cash assistance, the secretary for
18 children and families shall review whether reasonable suspicion exists that
19 such designated individual is unlawfully using a controlled substance or
20 controlled substance analog.

21 (A) In addition, any individual designated to receive cash assistance
22 on behalf of an eligible minor child shall be subject to drug screening at
23 any time when reasonable suspicion exists that such designated individual
24 is unlawfully using a controlled substance or controlled substance analog.
25 The secretary for children and families may use any information obtained
26 by the secretary for children and families to determine whether such
27 reasonable suspicion exists, including, but not limited to, the designated
28 individual's demeanor, missed appointments and arrest or other police
29 records, previous employment or application for employment in an
30 occupation or industry that regularly conducts drug screening, termination
31 from previous employment due to unlawful use of a controlled substance
32 or controlled substance analog or prior drug screening records of the
33 designated individual indicating unlawful use of a controlled substance or
34 controlled substance analog.

35 (B) Any designated individual whose drug screening results in a
36 positive test may request that the drug screening specimen be sent to a
37 different drug testing facility for an additional drug screening. Any
38 designated individual who requests an additional drug screening at a
39 different drug testing facility shall be required to pay the cost of drug
40 screening. Such designated individual who took the additional drug
41 screening and who tested negative for unlawful use of a controlled
42 substance and controlled substance analog shall be reimbursed for the cost
43 of such additional drug screening.

1 (C) Upon any positive test for unlawful use of a controlled substance
2 or controlled substance analog, the designated individual shall not receive
3 cash assistance on behalf of the parent's or legal guardian's minor child,
4 and another designated individual shall be selected by the secretary for
5 children and families to receive cash assistance on behalf of such parent's
6 or legal guardian's minor child.

7 (5) If a person has been convicted under federal or state law of any
8 offense which is classified as a felony by the law of the jurisdiction and
9 which has as an element of such offense the manufacture, cultivation,
10 distribution, possession or use of a controlled substance or controlled
11 substance analog, and the date of conviction is on or after July 1, 2013,
12 such person shall thereby become forever ineligible to receive any cash
13 assistance under this subsection unless such conviction is the person's first
14 conviction. First-time offenders convicted under federal or state law of any
15 offense which is classified as a felony by the law of the jurisdiction and
16 which has as an element of such offense the manufacture, cultivation,
17 distribution, possession or use of a controlled substance or controlled
18 substance analog, and the date of conviction is on or after July 1, 2013,
19 such person shall become ineligible to receive cash assistance for five
20 years from the date of conviction.

21 (6) Except for hearings before the Kansas department for children
22 and families or, the results of any drug screening administered as part of
23 the drug screening program authorized by this subsection shall be
24 confidential and shall not be disclosed publicly.

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

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

30 (9) As used in this subsection:

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

35 (B) "Controlled substance" means the same as in K.S.A. 2014 Supp.
36 21-5701, and amendments thereto, and 21 U.S.C. § 802.

37 (C) "Controlled substance analog" means the same as in K.S.A. 2014
38 Supp. 21-5701, and amendments thereto.

39 Sec. 11. K.S.A. 2014 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; *and*

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 *Kansas* in the employ of a Kansas licensed community mental health
22 center, or one of its contracted affiliates, or a federal, state, county or
23 municipal agency, or other political subdivision, or a contractor of a
24 federal, state, county or municipal agency, or other political subdivision, or
25 a duly chartered educational institution, or a medical care facility licensed
26 under K.S.A. 65-425 et seq., and amendments thereto, in a psychiatric
27 hospital licensed under K.S.A. 75-3307b, and amendments thereto, or a
28 contractor of such educational institution, medical care facility or
29 psychiatric hospital, and whose practice, in any such employment, is
30 limited to providing mental health services, is a part of the duties of such
31 licensee's paid position and is performed solely on behalf of the employer;
32 ~~or~~

33 ~~(3) the holder has been employed for at least three years as described~~
34 ~~in subsection (c)(1) and is providing mental health services pursuant to a~~
35 ~~written protocol with a person who holds a license to practice medicine~~
36 ~~and surgery other than an institutional license.~~

37 (d) *An institutional license shall expire on the date established by*
38 *rules and regulations of the board which may provide for renewal*
39 *throughout the year on a continuing basis. In each case in which an*
40 *institutional license is renewed for a period of time of more or less than 12*
41 *months, the board may prorate the amount of the fee established under*
42 *K.S.A. 65-2852, and amendments thereto. The request for renewal shall be*
43 *on a form provided by the board and shall be accompanied by the*

1 *prescribed fee, which shall be paid not later than the expiration date of the*
2 *license.* An institutional license ~~shall be valid for a period of two years~~
3 ~~after the date of issuance and~~ may be renewed for an additional two-year
4 ~~periods one-year period~~ if the applicant for renewal meets the
5 requirements under subsection (c) ~~of this section~~, has submitted an
6 application for renewal on a form provided by the board, has paid the
7 renewal fee established by rules and regulations of the board of not to
8 exceed \$500 and has submitted evidence of satisfactory completion of a
9 program of continuing education required by the board. In addition, an
10 applicant for renewal who is employed as described in subsection (c)(1)
11 shall submit with the application for renewal a recommendation that the
12 institutional license be renewed signed by the superintendent of the
13 institution to which the institutional license holder is assigned.

14 (e) Nothing in this section shall prohibit any person who was issued
15 an institutional license prior to the effective date of this ~~act~~ *section* from
16 having the institutional license reinstated by the board if the person meets
17 the requirements for an institutional license described in subsection (a).

18 (f) This section shall be a part of and supplemental to the Kansas
19 healing arts act.

20 Sec. 12. K.S.A. 2014 Supp. 74-4911f is hereby amended to read as
21 follows: 74-4911f. (a) Subject to procedures or limitations prescribed by
22 the governor, any person who is not an employee and who becomes a state
23 officer may elect to not become a member of the system. The election to
24 not become a member of the system must be filed within 90 days of
25 assuming the position of state officer. Such election shall be irrevocable. If
26 such election is not filed by such state officer, such state officer shall be a
27 member of the system.

28 (b) Any such state officer who is a member of the Kansas public
29 employees retirement system, on or after the effective date of this act, may
30 elect to not be a member by filing an election with the office of the
31 retirement system. The election to not become a member of the system
32 must be filed within 90 days of assuming the position of state officer. If
33 such election is not filed by such state officer, such state officer shall be a
34 member of the system.

35 (c) Subject to limitations prescribed by the board, the state agency
36 employing any employee who has filed an election as provided under
37 subsection (a) or (b) and who has entered into an employee participation
38 agreement, as provided in K.S.A. 2014 Supp. 74-49b10, and amendments
39 thereto, for deferred compensation pursuant to the Kansas public
40 employees deferred compensation plan shall contribute to such plan on
41 such employee's behalf an amount equal to 8% of the employee's salary, as
42 such salary has been approved pursuant to K.S.A. 75-2935b, and
43 amendments thereto, or as otherwise prescribed by law. With regard to a

1 state officer who is a member of the legislature who has retired pursuant to
2 the Kansas public employees retirement system and who files an election
3 as provided in this section, employee's salary means per diem
4 compensation as provided by law as a member of the legislature.

5 (d) As used in this section and K.S.A. 74-4927k, and amendments
6 thereto, "state officer" means the secretary of administration, secretary of
7 ~~aging for aging and disability services~~, secretary of commerce, secretary
8 of corrections, secretary of health and environment, secretary of labor,
9 secretary of revenue, secretary of ~~social and rehabilitation services for~~
10 ~~children and families~~, secretary of transportation, secretary of wildlife,
11 parks and tourism, superintendent of the Kansas highway patrol, secretary
12 of agriculture, executive director of the Kansas lottery, executive director
13 of the Kansas racing commission, president of the Kansas development
14 finance authority, state fire marshal, state librarian, securities
15 commissioner, adjutant general, members and chief hearing officer of the
16 state board of tax appeals, members of the state corporation commission,
17 any unclassified employee on the staff of officers of both houses of the
18 legislature, any unclassified employee appointed to the governor's or
19 lieutenant governor's staff, any person employed by the legislative branch
20 of the state of Kansas, other than any such person receiving service
21 credited under the Kansas public employees retirement system or any
22 other retirement system of the state of Kansas therefor, who elected to be
23 covered by the provisions of this section as provided in ~~subsection (e) of~~
24 K.S.A. 46-1302(e), and amendments thereto, or who is first employed on
25 or after July 1, 1996, by the legislative branch of the state of Kansas and
26 any member of the legislature who has retired pursuant to the Kansas
27 public employees retirement system.

28 (e) The provisions of this section shall not apply to any state officer
29 who has elected to remain eligible for assistance by the state board of
30 regents as provided in ~~subsection (a) of~~ K.S.A. 74-4925(a), and
31 amendments thereto.

32 Sec. 13. K.S.A. 2014 Supp. 74-4914d, as amended by section 2 of
33 2015 Senate Bill No. 228, is hereby amended to read as follows: 74-4914d.

34 (f) Any additional cost resulting from the normal retirement date and
35 retirement before such normal retirement date for security officers as
36 provided in K.S.A. 74-4914c, and amendments thereto, and disability
37 benefits as provided in K.S.A. 74-4914e, and amendments thereto, shall be
38 added to the employer rate of contribution for the department of
39 corrections as otherwise determined under K.S.A. 74-4920, and
40 amendments thereto, except that the employer rate of contribution for the
41 department of corrections including any such additional cost added to such
42 employer rate of contribution pursuant to this section shall in no event
43 exceed the employer rate of contribution for the department of corrections

1 for the immediately preceding fiscal year by more than the following
2 amounts expressed as a percentage of compensation upon which security
3 officers contribute during the period: (a) For the fiscal year commencing in
4 calendar years 2010 through 2012, an amount not to exceed more than
5 0.6% of the amount of the immediately preceding fiscal year; (b) for the
6 fiscal year commencing in calendar year 2013, an amount not to exceed
7 more than 0.9% of the amount of the immediately preceding fiscal year;
8 (c) for the fiscal year commencing in calendar year 2014, an amount not to
9 exceed more than 1% of the amount of the immediately preceding fiscal
10 year; (d) for the fiscal year commencing in calendar year 2015, the
11 employer rate of contribution shall be 10.91%, except that if bonds issued
12 pursuant to section 1, and amendments thereto, have debt service
13 payments that are fully or partially financed through the use of capitalized
14 interest, or have capitalized interest-only debt service payments, the
15 employer rate of contribution shall be an amount not to exceed more than
16 1.1% of the amount of the immediately preceding fiscal year; (e) for the
17 fiscal year commencing in calendar year 2016, the employer rate of
18 contribution shall be 10.81%, except that if bonds issued pursuant to
19 section 1, and amendments thereto, have debt service payments that are
20 fully or partially financed through the use of capitalized interest, or have
21 capitalized interest-only debt service payments, the employer rate of
22 contribution shall be an amount not to exceed more than 1.2% of the
23 amount of the immediately preceding fiscal year; and (f) in each
24 subsequent calendar year, an amount not to exceed more than 1.2% of the
25 amount of the immediately preceding fiscal year, *without regard to the*
26 *employer rate of contribution in subsection (2)*. As used in this section,
27 "capitalized interest" means interest payments on the bonds that are pre-
28 funded or financed from bond proceeds as part of the issue for a specified
29 period of time in order to offset one or more initial debt service payments.

30 (2) *On and after the effective date of this act, notwithstanding the*
31 *employer rate of contribution determined under K.S.A. 74-4920(1)(a), and*
32 *amendments thereto, and subsection (1), the employer rate of contribution*
33 *for employees covered by this section shall be 8.65% expressed as a*
34 *percentage of compensation for payroll periods chargeable to the last six*
35 *months of the fiscal year ending June 30, 2015.*

36 Sec. 14. K.S.A. 2014 Supp. 74-4920, as amended by section 3 of
37 2015 Senate Bill No. 228, is hereby amended to read as follows: 74-4920.

38 (1) (a) Upon the basis of each annual actuarial valuation and appraisal as
39 provided for in K.S.A. 74-4908(3)(a), and amendments thereto, the board
40 shall certify, on or before July 15 of each year, to the division of the budget
41 in the case of the state and to the agent for each other participating
42 employer an actuarially determined estimate of the rate of contribution
43 which will be required, together with all accumulated contributions and

1 other assets of the system, to be paid by each such participating employer
2 to pay all liabilities which shall exist or accrue under the system, including
3 amortization of the actuarial accrued liability as determined by the board.
4 The board shall determine the actuarial cost method to be used in annual
5 actuarial valuations, to determine the employer contribution rates that shall
6 be certified by the board. Such certified rate of contribution, amortization
7 methods and periods and actuarial cost method shall be based on the
8 standards set forth in K.S.A. 74-4908(3)(a), and amendments thereto, and
9 shall not be based on any other purpose outside of the needs of the system.

10 (b) (i) For employers affiliating on and after January 1, 1999, upon
11 the basis of an annual actuarial valuation and appraisal of the system
12 conducted in the manner provided for in K.S.A. 74-4908, and amendments
13 thereto, the board shall certify, on or before July 15 of each year to each
14 such employer an actuarially determined estimate of the rate of
15 contribution which shall be required to be paid by each such employer to
16 pay all of the liabilities which shall accrue under the system from and after
17 the entry date as determined by the board, upon recommendation of the
18 actuary. Such rate shall be termed the employer's participating service
19 contribution and shall be uniform for all participating employers. Such
20 additional liability shall be amortized as determined by the board. For all
21 participating employers described in this section, the board shall determine
22 the actuarial cost method to be used in annual actuarial valuations to
23 determine the employer contribution rates that shall be certified by the
24 board.

25 (ii) The board shall determine for each such employer separately an
26 amount sufficient to amortize all liabilities for prior service costs which
27 shall have accrued at the time of entry into the system. On the basis of
28 such determination the board shall annually certify to each such employer
29 separately an actuarially determined estimate of the rate of contribution
30 which shall be required to be paid by that employer to pay all of the
31 liabilities for such prior service costs. Such rate shall be termed the
32 employer's prior service contribution.

33 (2) The division of the budget and the governor shall include in the
34 budget and in the budget request for appropriations for personal services
35 the sum required to satisfy the state's obligation under this act as certified
36 by the board and shall present the same to the legislature for allowance and
37 appropriation.

38 (3) Each other participating employer shall appropriate and pay to the
39 system a sum sufficient to satisfy the obligation under this act as certified
40 by the board.

41 (4) Each participating employer is hereby authorized to pay the
42 employer's contribution from the same fund that the compensation for
43 which such contribution is made is paid from or from any other funds

1 available to it for such purpose. Each political subdivision, other than an
2 instrumentality of the state, which is by law authorized to levy taxes for
3 other purposes, may levy annually at the time of its levy of taxes, a tax
4 which may be in addition to all other taxes authorized by law for the
5 purpose of making its contributions under this act and, in the case of cities
6 and counties, to pay a portion of the principal and interest on bonds issued
7 under the authority of K.S.A. 12-1774, and amendments thereto, by cities
8 located in the county, which tax, together with any other fund available,
9 shall be sufficient to enable it to make such contribution. In lieu of levying
10 the tax authorized in this subsection, any taxing subdivision may pay such
11 costs from any employee benefits contribution fund established pursuant to
12 K.S.A. 12-16, 102, and amendments thereto. Each participating employer
13 which is not by law authorized to levy taxes as described above, but which
14 prepares a budget for its expenses for the ensuing year and presents the
15 same to a governing body which is authorized by law to levy taxes as
16 described above, may include in its budget an amount sufficient to make
17 its contributions under this act which may be in addition to all other taxes
18 authorized by law. Such governing body to which the budget is submitted
19 for approval, may levy a tax sufficient to allow the participating employer
20 to make its contributions under this act, which tax, together with any other
21 fund available, shall be sufficient to enable the participating employer to
22 make the contributions required by this act.

23 (5) (a) The rate of contribution certified to a participating employer as
24 provided in this section shall apply during the fiscal year of the
25 participating employer which begins in the second calendar year following
26 the year of the actuarial valuation.

27 (b) (i) Except as specifically provided in this section, for fiscal years
28 commencing in calendar year 1996 and in each subsequent calendar year,
29 the rate of contribution certified to the state of Kansas shall in no event
30 exceed the state's contribution rate for the immediately preceding fiscal
31 year by more than 0.2% of the amount of compensation upon which
32 members contribute during the period.

33 (ii) Except as specifically provided in this subsection, for the fiscal
34 years commencing in the following calendar years, the rate of contribution
35 certified to the state of Kansas and to the participating employers under
36 K.S.A. 74-4931, and amendments thereto, shall in no event exceed the
37 state's contribution rate for the immediately preceding fiscal year by more
38 than the following amounts expressed as a percentage of compensation
39 upon which members contribute during the period: (A) For the fiscal year
40 commencing in calendar years 2010 through 2012, an amount not to
41 exceed more than 0.6% of the amount of the immediately preceding fiscal
42 year; (B) for the fiscal year commencing in calendar year 2013, an amount
43 not to exceed more than 0.9% of the amount of the immediately preceding

1 fiscal year; (C) for the fiscal year commencing in calendar year 2014, an
2 amount not to exceed more than 1% of the amount of the immediately
3 preceding fiscal year; (D) for the fiscal year commencing in calendar year
4 2015, the employer rate of contribution shall be 10.91%, except that if
5 bonds issued pursuant to section 1, and amendments thereto, have debt
6 service payments that are fully or partially financed through the use of
7 capitalized interest, or have capitalized interest-only debt service
8 payments, the employer rate of contribution shall be an amount not to
9 exceed more than 1.1% of the amount of the immediately preceding fiscal
10 year; (E) for the fiscal year commencing in calendar year 2016, the
11 employer rate of contribution shall be 10.81%, except that if bonds issued
12 pursuant to section 1, and amendments thereto, have debt service
13 payments that are fully or partially financed through the use of capitalized
14 interest, or have capitalized interest-only debt service payments, the
15 employer rate of contribution shall be an amount not to exceed more than
16 1.2% of the amount of the immediately preceding fiscal year; and (F) in
17 each subsequent calendar year, an amount not to exceed more than 1.2% of
18 the amount of the immediately preceding fiscal year, *without regard to the*
19 *rate of employer contribution in subsection (17)*. As used in this
20 subsection, "capitalized interest" means interest payments on the bonds
21 that are pre-funded or financed from bond proceeds as part of the issue for
22 a specified period of time in order to offset one or more initial debt service
23 payments.

24 (iii) Except as specifically provided in this section, for fiscal years
25 commencing in calendar year 1997 and in each subsequent calendar year,
26 the rate of contribution certified to participating employers other than the
27 state of Kansas shall in no event exceed such participating employer's
28 contribution rate for the immediately preceding fiscal year by more than
29 0.15% of the amount of compensation upon which members contribute
30 during the period.

31 (iv) Except as specifically provided in this subsection, for the fiscal
32 years commencing in the following calendar years, the rate of contribution
33 certified to participating employers other than the state of Kansas shall in
34 no event exceed the contribution rate for such employers for the
35 immediately preceding fiscal year by more than the following amounts
36 expressed as a percentage of compensation upon which members
37 contribute during the period: (A) For the fiscal year commencing in
38 calendar years 2010 through 2013, an amount not to exceed more than
39 0.6% of the amount of the immediately preceding fiscal year; (B) for the
40 fiscal year commencing in calendar year 2014, an amount not to exceed
41 more than 0.9% of the amount of the immediately preceding fiscal year;
42 (C) for the fiscal year commencing in calendar year 2015, an amount not
43 to exceed more than 1% of the amount of the immediately preceding fiscal

1 year; (D) for the fiscal year commencing in calendar year 2016, an amount
2 not to exceed more than 1.1% of the amount of the immediately preceding
3 fiscal year; and (E) for the fiscal year commencing in calendar year 2017,
4 and in each subsequent calendar year, an amount not to exceed more than
5 1.2% of the amount of the immediately preceding fiscal year.

6 (v) As part of the annual actuarial valuation, there shall be a separate
7 employer rate of contribution calculated for the state of Kansas, a separate
8 employer rate of contribution calculated for participating employers under
9 K.S.A. 74-4931, and amendments thereto, a combined employer rate of
10 contribution calculated for the state of Kansas and participating employers
11 under K.S.A. 74-4931, and amendments thereto, and a separate employer
12 rate of contribution calculated for all other participating employers.

13 (vi) There shall be a combined employer rate of contribution certified
14 to the state of Kansas and participating employers under K.S.A. 74-4931,
15 and amendments thereto. There shall be a separate employer rate of
16 contribution certified to all other participating employers.

17 (vii) If the combined employer rate of contribution calculated for the
18 state of Kansas and participating employers under K.S.A. 74-4931, and
19 amendments thereto, is greater than the separate employer rate of
20 contribution for the state of Kansas, the difference in the two rates applied
21 to the actual payroll of the state of Kansas for the applicable fiscal year
22 shall be calculated. This amount shall be certified by the board for deposit
23 as additional employer contributions to the retirement benefit
24 accumulation reserve for the participating employers under K.S.A. 74-
25 4931, and amendments thereto.

26 (6) The actuarial cost of any legislation enacted in the 1994 session of
27 the Kansas legislature will be included in the June 30, 1994, actuarial
28 valuation in determining contribution rates for participating employers.

29 (7) The actuarial cost of the provisions of K.S.A. 74-4950i, and
30 amendments thereto, will be included in the June 30, 1998, actuarial
31 valuation in determining contribution rates for participating employers.
32 The actuarial accrued liability incurred for the provisions of K.S.A. 74-
33 4950i, and amendments thereto, shall be amortized over 15 years.

34 (8) Except as otherwise provided by law, the actuarial cost of any
35 legislation enacted by the Kansas legislature, except the actuarial cost of
36 K.S.A. 74-49, 114a, and amendments thereto, shall be in addition to the
37 employer contribution rates certified for the employer contribution rate in
38 the fiscal year immediately following such enactment. Such actuarial cost
39 shall be determined by the qualified actuary employed or retained by the
40 system pursuant to K.S.A. 74-4908, and amendments thereto, and reported
41 to the system and the joint committee on pensions, investments and
42 benefits.

43 (9) Notwithstanding the provisions of subsection (8), the actuarial

1 cost of the provisions of K.S.A. 74-49,109 et seq., and amendments
2 thereto, shall be first reflected in employer contribution rates effective with
3 the first day of the first payroll period for the fiscal year 2005. The
4 actuarial accrued liability incurred for the provisions of K.S.A. 74-49,109
5 et seq., and amendments thereto, shall be amortized over 10 years.

6 (10) The cost of the postretirement benefit payment provided
7 pursuant to the provisions of K.S.A. 2014 Supp. 74-49,114b, and
8 amendments thereto, for retirees other than local retirees as described in
9 subsection (11) or insured disability benefit recipients shall be paid in the
10 fiscal year commencing on July 1, 2007.

11 (11) The actuarial accrued liability incurred for the provisions of
12 K.S.A. 2014 Supp. 74-49,114b, and amendments thereto, for the KPERS
13 local group and retirees who were employees of local employers which
14 affiliated with the Kansas police and firemen's retirement system shall be
15 amortized over 10 years.

16 (12) The cost of the postretirement benefit payment provided
17 pursuant to the provisions of K.S.A. 2014 Supp. 74-49,114c, and
18 amendments thereto, for retirees other than local retirees as described in
19 subsection (13) or insured disability benefit recipients shall be paid in the
20 fiscal year commencing on July 1, 2008.

21 (13) The actuarial accrued liability incurred for the provisions of
22 K.S.A. 2014 Supp. 74-49,114c, and amendments thereto, for the KPERS
23 local group and retirees who were employees of local employers which
24 affiliated with the Kansas police and firemen's retirement system shall be
25 amortized over 10 years.

26 (14) The board with the advice of the actuary may fix the contribution
27 rates for participating employers joining the system after one year from the
28 first entry date or for employers who exercise the option contained in
29 K.S.A. 74-4912, and amendments thereto, at rates different from the rate
30 fixed for employers joining within one year of the first entry date.

31 (15) Employer contributions shall in no way be limited by any other
32 act which now or in the future establishes or limits the compensation of
33 any member.

34 (16) Notwithstanding any provision of law to the contrary, each
35 participating employer shall remit quarterly, or as the board may otherwise
36 provide, all employee deductions and required employer contributions to
37 the executive director for credit to the Kansas public employees retirement
38 fund within three days after the end of the period covered by the
39 remittance by electronic funds transfer. Remittances of such deductions
40 and contributions received after such date are delinquent. Delinquent
41 payments due under this subsection shall be subject to interest at the rate
42 established for interest on judgments under K.S.A. 16-204(a), and
43 amendments thereto. At the request of the board, delinquent payments

1 which are due or interest owed on such payments, or both, may be
2 deducted from any other moneys payable to such employer by any
3 department or agency of the state.

4 *(17) On and after the effective date of this act, notwithstanding the*
5 *employer rate of contribution determined under subsection (1)(a), for the*
6 *state of Kansas and participating employers under K.S.A. 74-4931, and*
7 *amendments thereto, the employer rate of contribution for the state of*
8 *Kansas and participating employers under K.S.A. 74-4931, and*
9 *amendments thereto, shall be 8.65% expressed as a percentage of*
10 *compensation for payroll periods chargeable to the last six months of the*
11 *fiscal year ending June 30, 2015.*

12 Sec. 15. K.S.A. 2014 Supp. 75-37,121 is hereby amended to read as
13 follows: 75-37,121. (a) There is created the office of administrative
14 hearings within the department of administration, to be headed by a
15 director appointed by the secretary of administration. The director shall be
16 in the unclassified service under the Kansas civil service act.

17 (b) The office may employ or contract with presiding officers, court
18 reporters and other support personnel as necessary to conduct proceedings
19 required by the Kansas administrative procedure act for adjudicative
20 proceedings of the state agencies, boards and commissions specified in
21 subsection (h). The office shall conduct adjudicative proceedings of any
22 state agency which is specified in subsection (h) when requested by such
23 agency. Only a person admitted to practice law in this state or a person
24 directly supervised by a person admitted to practice law in this state may
25 be employed as a presiding officer. The office may employ regular part-
26 time personnel. Persons employed by the office shall be under the
27 classified civil service.

28 (c) If the office cannot furnish one of its presiding officers within 60
29 days in response to a requesting agency's request, the director shall
30 designate in writing a full-time employee of an agency other than the
31 requesting agency to serve as presiding officer for the proceeding, but only
32 with the consent of the employing agency. The designee must possess the
33 same qualifications required of presiding officers employed by the office.

34 (d) The director may furnish presiding officers on a contract basis to
35 any governmental entity to conduct any proceeding other than a
36 proceeding as provided in subsection (h).

37 (e) The secretary of administration may adopt rules and regulations:

38 (1) To establish procedures for agencies to request and for the
39 director to assign presiding officers. An agency may neither select nor
40 reject any individual presiding officer for any proceeding except in
41 accordance with the Kansas administrative procedure act;

42 (2) to establish procedures and adopt forms, consistent with the
43 Kansas administrative procedure act, the model rules of procedure, and

1 other provisions of law, to govern presiding officers; and
2 (3) to facilitate the performance of the responsibilities conferred upon
3 the office by the Kansas administrative procedure act.
4 (f) The director may implement the provisions of this section and
5 rules and regulations adopted under its authority.
6 (g) The secretary of administration may adopt rules and regulations to
7 establish fees to charge a state agency for the cost of using a presiding
8 officer.
9 (h) The following state agencies, boards and commissions shall
10 utilize the office of administrative hearings for conducting adjudicative
11 hearings under the Kansas administrative procedures act in which the
12 presiding officer is not the agency head or one or more members of the
13 agency head:
14 (1) On and after July 1, 2005: ~~Department of social and rehabilitation~~
15 ~~services~~ *Kansas department for children and families*, juvenile justice
16 ~~authority, department on aging~~ *Kansas department for aging and disability*
17 *services*, department of health and environment, Kansas public employees
18 retirement system, Kansas water office, Kansas department of agriculture
19 division of animal health and Kansas insurance department.
20 (2) On and after July 1, 2006: Emergency medical services board,
21 emergency medical services council and Kansas human rights
22 commission.
23 (3) On and after July 1, 2007: Kansas lottery, Kansas racing and
24 gaming commission, state treasurer, pooled money investment board,
25 Kansas department of wildlife, parks and tourism and state board of tax
26 appeals.
27 (4) On and after July 1, 2008: Department of human resources, state
28 corporation commission, Kansas department of agriculture division of
29 conservation, agricultural labor relations board, department of
30 administration, department of revenue, board of adult care home
31 administrators, Kansas state grain inspection department, board of
32 accountancy and Kansas wheat commission.
33 (5) On and after July 1, 2009, all other Kansas administrative
34 procedure act hearings not mentioned in subsections (1), (2), (3) and (4).
35 (i) (1) Effective July 1, 2005, any presiding officer in agencies
36 specified in subsection (h)(1) which conduct hearings pursuant to the
37 Kansas administrative procedure act, except those exempted pursuant to
38 K.S.A. 77-551, and amendments thereto, and support personnel for such
39 presiding officers, shall be transferred to and shall become employees of
40 the office of administrative hearings. Such personnel shall retain all rights
41 under the state personnel system and retirement benefits under the laws of
42 this state which had accrued to or vested in such personnel prior to the
43 effective date of this section. Such person's services shall be deemed to

1 have been continuous. All transfers of personnel positions in the classified
2 service under the Kansas civil service act shall be in accordance with civil
3 service laws and any rules and regulations adopted thereunder. This
4 section shall not affect any matter pending before an administrative
5 hearing officer at the time of the effective date of the transfer, and such
6 matter shall proceed as though no transfer of employment had occurred.

7 (2) Effective July 1, 2006, any presiding officer in agencies specified
8 in subsection (h)(2) which conduct hearings pursuant to the Kansas
9 administrative procedure act, except those exempted pursuant to K.S.A.
10 77-551, and amendments thereto, and support personnel for such presiding
11 officers, shall be transferred to and shall become employees of the office
12 of administrative hearings. Such personnel shall retain all rights under the
13 state personnel system and retirement benefits under the laws of this state
14 which had accrued to or vested in such personnel prior to the effective date
15 of this section. Such person's services shall be deemed to have been
16 continuous. All transfers of personnel positions in the classified service
17 under the Kansas civil service act shall be in accordance with civil service
18 laws and any rules and regulations adopted thereunder. This section shall
19 not affect any matter pending before an administrative hearing officer at
20 the time of the effective date of the transfer, and such matter shall proceed
21 as though no transfer of employment had occurred.

22 (3) Effective July 1, 2007, any presiding officer in agencies specified
23 in subsection (h)(3) which conduct hearings pursuant to the Kansas
24 administrative procedure act, except those exempted pursuant to K.S.A.
25 77-551, and amendments thereto, and support personnel for such presiding
26 officers, shall be transferred to and shall become employees of the office
27 of administrative hearings. Such personnel shall retain all rights under the
28 state personnel system and retirement benefits under the laws of this state
29 which had accrued to or vested in such personnel prior to the effective date
30 of this section. Such person's services shall be deemed to have been
31 continuous. All transfers of personnel positions in the classified service
32 under the Kansas civil service act shall be in accordance with civil service
33 laws and any rules and regulations adopted thereunder. This section shall
34 not affect any matter pending before an administrative hearing officer at
35 the time of the effective date of the transfer, and such matter shall proceed
36 as though no transfer of employment had occurred.

37 (4) Effective July 1, 2008, any full-time presiding officer in agencies
38 specified in subsection (h)(4) which conduct hearings pursuant to the
39 Kansas administrative procedure act, except those exempted pursuant to
40 K.S.A. 77-551, and amendments thereto, and support personnel for such
41 presiding officers, shall be transferred to and shall become employees of
42 the office of administrative hearings. Such personnel shall retain all rights
43 under the state personnel system and retirement benefits under the laws of

1 this state which had accrued to or vested in such personnel prior to the
2 effective date of this section. Such person's services shall be deemed to
3 have been continuous. All transfers of personnel positions in the classified
4 service under the Kansas civil service act shall be in accordance with civil
5 service laws and any rules and regulations adopted thereunder. This
6 section shall not affect any matter pending before an administrative
7 hearing officer at the time of the effective date of the transfer, and such
8 matter shall proceed as though no transfer of employment had occurred.

9 (5) Effective July 1, 2009, any full-time presiding officer in agencies
10 specified in subsection (h)(5) which conduct hearings pursuant to the
11 Kansas administrative procedure act, except those exempted pursuant to
12 K.S.A. 77-551, and amendments thereto, and support personnel for such
13 presiding officers, shall be transferred to and shall become employees of
14 the office of administrative hearings. Such personnel shall retain all rights
15 under the state personnel system and retirement benefits under the laws of
16 this state which had accrued to or vested in such personnel prior to the
17 effective date of this section. Such person's services shall be deemed to
18 have been continuous. All transfers of personnel positions in the classified
19 service under the Kansas civil service act shall be in accordance with civil
20 service laws and any rules and regulations adopted thereunder. This
21 section shall not affect any matter pending before an administrative
22 hearing officer at the time of the effective date of the transfer, and such
23 matter shall proceed as though no transfer of employment occurred.

24 Sec. 16. K.S.A. 2014 Supp. 76-1936 is hereby amended to read as
25 follows: 76-1936. (a) The commissioner of ~~mental health and~~
26 ~~developmental disabilities~~ *community services and programs* of the
27 Kansas department for aging and disability services, with the approval of
28 the secretary for aging and disability services and the director of the
29 Kansas commission on veterans affairs office, may transfer patients in the
30 state hospitals at ~~Topeka~~, Osawatimie and Larned and patients in the
31 Rainbow mental health facility; *and* the Parsons state hospital and training
32 center ~~and the Winfield state hospital and training center~~ who have served
33 in the military or naval forces of the United States or whose husband, wife,
34 father, son or daughter has served in the active military or naval service of
35 the United States during any period of any war as defined in K.S.A. 76-
36 1908, and amendments thereto, and who was discharged or relieved
37 therefrom under conditions other than dishonorable, to the Kansas soldiers'
38 home. No patient who is such a mentally ill person, in the opinion of the
39 commissioner of mental health and developmental disabilities, that
40 because of such patient's illness such patient is likely to injure themselves
41 or others, shall be so transferred to such Kansas soldiers' home, and no
42 such patient shall be so transferred if such transfer will deny admission to
43 persons entitled to admission under K.S.A. 76-1908, and amendments

1 thereto, and rules and regulations promulgated thereunder. Persons so
2 transferred shall not be considered as members of the Kansas soldiers'
3 home but shall be considered as patients therein.

4 (b) All of the laws, rules and regulations relating to patients in the
5 above-specified state hospitals and mental health facility shall be
6 applicable to such patients so transferred insofar as the same can be made
7 applicable. Any patient so transferred who is found to be or shall become
8 such a mentally ill person, in the opinion of the commissioner of mental
9 health and developmental disabilities, that because of such patient's illness
10 such patient is likely to injure themselves or others or who is determined to
11 need additional psychiatric treatment, shall be retransferred by the
12 superintendent of the Kansas soldiers' home, with the approval of the
13 commissioner of mental health and developmental disabilities and the
14 director of the Kansas commission on veterans affairs office, to the
15 institution from whence the patient was originally transferred.

16 Sec. 17. K.S.A. 2014 Supp. 79-1609 is hereby amended to read as
17 follows: 79-1609. Any person aggrieved by any order of the hearing
18 officer or panel, *or by the classification and appraisal of an independent*
19 *appraiser, as provided in K.S.A. 2014 Supp. 79-5b03, and amendments*
20 *thereto*, may appeal to the state board of tax appeals by filing a written
21 notice of appeal, on forms approved by the state board of tax appeals and
22 provided by the county clerk for such purpose, stating the grounds thereof
23 and a description of any comparable property or properties and the
24 appraisal thereof upon which they rely as evidence of inequality of the
25 appraisal of their property, if that be a ground of the appeal, with the state
26 board of tax appeals and by filing a copy thereof with the county clerk
27 within 30 days after the date of the order from which the appeal is taken.
28 The notice of appeal may be signed by the taxpayer, any person with an
29 executed declaration of representative form from the property valuation
30 division of the department of revenue or any person authorized to
31 represent the taxpayer in ~~subsection (f)~~ of K.S.A. 74-2433(f), and
32 amendments thereto. A county or district appraiser may appeal to the state
33 board of tax appeals from any order of the hearing officer or panel. With
34 regard to any matter properly submitted to the board relating to the
35 determination of valuation of residential property or real property used for
36 commercial and industrial purposes for taxation purposes, it shall be the
37 duty of the county appraiser to initiate the production of evidence to
38 demonstrate, by a preponderance of the evidence, the validity and
39 correctness of such determination. With regard to leased commercial and
40 industrial property, the burden of proof shall be on the taxpayer unless,
41 within 30 calendar days following the informal meeting required by
42 K.S.A. 79-1448, and amendments thereto, the taxpayer furnished to the
43 county or district appraiser a complete income and expense statement for

1 the property for the three years next preceding the year of appeal. Such
2 income and expense statement shall be in such format that is regularly
3 maintained by the taxpayer in the ordinary course of the taxpayer's
4 business. If the taxpayer submits a single property appraisal with an
5 effective date of January 1 of the year appealed, the burden of proof shall
6 return to the county appraiser.

7 Sec. 18. K.S.A. 2014 Supp. 79-1703 is hereby amended to read as
8 follows: 79-1703. (a) Except as provided in subsection (b) or as otherwise
9 provided by law, no board of county commissioners or other officer of any
10 county shall have power to release, discharge or remit any portion of the
11 taxes assessed or levied against any person or property within their
12 respective jurisdictions for any reason whatever. Any taxes so discharged,
13 released or remitted may be recovered by civil action from the members of
14 the board of county commissioners or such other officer and the sureties of
15 their official bonds at the suit of the attorney general, the county attorney,
16 or of any citizen of the county or the board of education of any school
17 district a part of the territory of which is in such county, as the case may
18 be, and when collected shall be paid into the county treasury to be properly
19 apportioned and paid to the county, municipalities, school districts and
20 other taxing subdivisions entitled thereto. Nothing in this subsection shall
21 be construed to prohibit a board of county commissioners from entering
22 into an agreement whereby the board agrees to pay the full amount of the
23 taxes assessed or levied against any person or property on behalf of such
24 person, as long as such amount is properly apportioned and paid to the
25 county, municipalities, school districts and other taxing subdivisions
26 entitled to a portion of such amount.

27 (b) In the event a person, partnership or corporation has failed to pay
28 any portion of the taxes assessed or levied against its property located
29 within any county and such person, partnership or corporation is a debtor
30 in an action filed pursuant to the United States bankruptcy code, the
31 county commissioners of any such county may compromise, assign,
32 transfer or otherwise settle such tax claim in such fashion as the
33 commissioners deem to be in the best interest of the state and all taxing
34 subdivisions affected thereby, subject to approval by the state-~~county~~ *board*
35 of tax appeals; except that, the state and each other taxing subdivision
36 affected by any such settlement shall receive the same proportional share
37 of its respective tax claim. The state-~~county~~ *board* of tax appeals shall
38 respond to such settlement request within 30 days from the date of
39 receiving such request or such request shall be deemed approved.

40 Sec. 19. K.S.A. 2013 Supp. 38-2310, as amended by section 2 of
41 chapter 131 of the 2014 Session Laws of Kansas and 65-2895, as amended
42 by section 36 of chapter 131 of the 2014 Session Laws of Kansas and
43 K.S.A. 2014 Supp. 9-1111, as amended by section 8 of 2015 House Bill

1 No. 2216, 9-1215, as amended by section 1 of 2015 Senate Substitute for
2 House Bill No. 2258, 9-1216, as amended by section 2 of 2015 Senate
3 Substitute for House Bill No. 2258, 12-1744a, 12-1744f, 12-4516, 12-
4 4516a, 12-4516b, 12-4516c, 17-7673, 17-7673a, 17-7674, 17-7674a, 17-
5 7677, 17-7677a, 20-380a, 21-6604, 21-6604c, ~~21-6614, 21-6614e~~ 38-
6 2310, 39-709, as amended by section 9 of 2015 Senate Substitute for
7 House Bill No. 2258, 39-709, as amended by section 150 of 2015 Senate
8 Bill No. 240, 65-2895, 74-4911f, 74-4911j, 74-4914d, as amended by
9 section 2 of 2015 Senate Bill No. 228, 74-4914d, as amended by section
10 55 of 2015 House Substitute for Senate Bill No. 4, 74-4920, as amended
11 by section 3 of 2015 Senate Bill No. 228, 74-4920, as amended by section
12 56 of 2015 House Substitute for Senate Bill No. 4, 74-99b34a, 75-37, 121,
13 75-37, 121b, 76-1936, 76-1936a, 79-1609, 79-1609a, 79-1703 and 79-
14 1703a are hereby repealed.

15 Sec. 20. This act shall take effect and be in force from and after its
16 publication in the statute book.