

HOUSE BILL No. 2622

By Committee on Children and Seniors

2-5

1 AN ACT concerning public assistance; relating to child care assistance;
2 eligibility; requirements; amending K.S.A. 2017 Supp. 39-709 and
3 repealing the existing section.
4

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

6 Section 1. K.S.A. 2017 Supp. 39-709 is hereby amended to read as
7 follows: 39-709. (a) *General eligibility requirements for assistance for*
8 *which federal moneys are expended.* Subject to the additional requirements
9 below, assistance in accordance with plans under which federal moneys
10 are expended may be granted to any needy person who:

11 (1) Has insufficient income or resources to provide a reasonable
12 subsistence compatible with decency and health. Where a husband and
13 wife or cohabiting partners are living together, the combined income or
14 resources of both shall be considered in determining the eligibility of
15 either or both for such assistance unless otherwise prohibited by law. The
16 secretary, in determining need of any applicant for or recipient of
17 assistance shall not take into account the financial responsibility of any
18 individual for any applicant or recipient of assistance unless such applicant
19 or recipient is such individual's spouse, cohabiting partner or such
20 individual's minor child or minor stepchild if the stepchild is living with
21 such individual. The secretary in determining need of an individual may
22 provide such income and resource exemptions as may be permitted by
23 federal law. For purposes of eligibility for temporary assistance for needy
24 families, for food assistance and for any other assistance provided through
25 the Kansas department for children and families under which federal
26 moneys are expended, the secretary for children and families shall
27 consider one motor vehicle owned by the applicant for assistance,
28 regardless of the value of such vehicle, as exempt personal property and
29 shall consider any equity in any boat, personal water craft, recreational
30 vehicle, recreational off-highway vehicle or all-terrain vehicle, as defined
31 by K.S.A. 8-126, and amendments thereto, or any additional motor vehicle
32 owned by the applicant for assistance to be a nonexempt resource of the
33 applicant for assistance except that any additional motor vehicle used by
34 the applicant, the applicant's spouse or the applicant's cohabiting partner
35 for the primary purpose of earning income may be considered as exempt
36 personal property in the secretary's discretion.

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

3 (b) *Temporary assistance for needy families.* Assistance may be
4 granted under this act to any dependent child, or relative, subject to the
5 general eligibility requirements as set out in subsection (a), who resides in
6 the state of Kansas or whose parent or other relative with whom the child
7 is living resides in the state of Kansas. Such assistance shall be known as
8 temporary assistance for needy families. Where the husband and wife or
9 cohabiting partners are living together, both shall register for work under
10 the program requirements for temporary assistance for needy families in
11 accordance with criteria and guidelines prescribed by rules and regulations
12 of the secretary.

13 (1) As used in this subsection, "family group" or "household" means
14 the applicant or recipient for TANF, child care subsidy or employment
15 services and all individuals living together in which there is a relationship
16 of legal responsibility or a qualifying caretaker relationship. This will
17 include a cohabiting boyfriend or girlfriend living with the person legally
18 responsible for the child. The family group shall not be eligible for TANF
19 if the family group contains at least one adult member who has received
20 TANF, including the federal TANF assistance received in any other state,
21 for 24 calendar months beginning on and after October 1, 1996, unless the
22 secretary determines a hardship exists and grants an extension allowing
23 receipt of TANF until the 36-month limit is reached. No extension beyond
24 36 months shall be granted. Hardship provisions for a recipient include:

25 (A) Is a caretaker of a disabled family member living in the
26 household;

27 (B) has a disability ~~which~~ *that* precludes employment on a long-term
28 basis or requires substantial rehabilitation;

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

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

33 (E) is determined by the 24th month to have an extreme hardship other
34 than what is designated in criteria listed in subparagraphs (A) through (D).
35 This determination will be made by the executive review team.

36 (2) All adults applying for TANF shall be required to complete a
37 work program assessment as specified by the Kansas department for
38 children and families, including those who have been disqualified for or
39 denied TANF due to non-cooperation, drug testing requirements or fraud.
40 Adults who are not otherwise eligible for TANF, such as ineligible aliens,
41 relative/non-relative caretakers and adults receiving supplemental security
42 income are not required to complete the assessment process. During the
43 application processing period, applicants must complete at least one

1 module or its equivalent of the work program assessment to be considered
2 eligible for TANF benefits, unless good cause is found to be exempt from
3 the requirements. Good cause exemptions shall only include:

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

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

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

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

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

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

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

18 (4) TANF mandatory work program applicants and recipients shall
19 participate in work components that lead to competitive, integrated
20 employment. Components are defined by the federal government as being
21 either primary or secondary. In order to meet federal work participation
22 requirements, households need to meet at least 30 hours of participation
23 per week, at least 20 hours of which need to be primary and at least 10
24 hours may be secondary components in one parent households where the
25 youngest child is six years of age or older. Participation hours shall be 55
26 hours in two parent households (35 hours per week if child care is not
27 used). The maximum assignment is 40 hours per week per individual. For
28 two parent families to meet the federal work participation rate both parents
29 must participate in a combined total of 55 hours per week, 50 hours of
30 which must be in primary components, or one or both parents could be
31 assigned a combined total of 35 hours per week (30 hours of which must
32 be primary components) if department for children and families paid child
33 care is not received by the family. Single parent families with a child under
34 age six meet the federal participation requirement if the parent is engaged
35 in work or work activities for at least 20 hours per week in a primary work
36 component. The following components meet federal definitions of primary
37 hours of participation: Full or part-time employment, apprenticeship, work
38 study, self-employment, job corps, subsidized employment, work
39 experience sites, on-the-job training, supervised community service,
40 vocational education, job search and job readiness. Secondary components
41 include: Job skills training, education directly related to employment such
42 as adult basic education and English as a second language, and completion
43 of a high school diploma or GED.

1 (5) A parent or other adult caretaker personally providing care for a
2 child under the age of three months in their TANF household is exempt
3 from work participation activities until the month the child turns three
4 months of age. Such three-month limitation shall not apply to a parent or
5 other adult caretaker who is personally providing care for a child born
6 significantly premature, with serious medical conditions or with a
7 disability as defined by the secretary, in consultation with the secretary of
8 health and environment, and adopted in the rules and regulations. The
9 three-month period is defined as two consecutive months starting with the
10 month after childbirth. The exemption for caring for a child under three
11 months cannot be claimed:

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

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

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

22 (D) by any person assigned to a work participation activity for
23 substance use disorders.

24 (6) TANF work experience placements shall be reviewed after 90
25 days and are limited to six months per 24-month lifetime limit. A client's
26 progress shall be reviewed prior to each new placement regardless of the
27 length of time they are at the work experience site.

28 (7) TANF participants with disabilities shall engage in required
29 employment activities to the maximum extent consistent with their
30 abilities. TANF participants shall provide current documentation by a
31 qualified medical practitioner that details the abilities to engage in
32 employment and any limitations in work activities along with the expected
33 duration of such limitations. Disability is defined as a physical or mental
34 impairment constituting or resulting in a substantial impediment to
35 employment for such individual.

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

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

43 (B) for a second penalty, six months and full cooperation with work

1 program activities;

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

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

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

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

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

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

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

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

24 (11) Individuals that have not cooperated without good cause with
25 child support services shall be ineligible to participate in the food
26 assistance program. The period of disqualification ends once it has been
27 determined that such individual is cooperating with child support services.

28 (12) (A) Any individual who is found to have committed fraud or is
29 found guilty of the crime of theft pursuant to K.S.A. 39-720 and K.S.A.
30 2017 Supp. 21-5801, and amendments thereto, in either the TANF or child
31 care program shall render all adults in the family unit ineligible for TANF
32 assistance. Adults in the household who were determined to have
33 committed fraud or were convicted of the crime of theft pursuant to K.S.A.
34 39-720 and K.S.A. 2017 Supp. 21-5801, and amendments thereto, shall
35 render themselves and all adult household members ineligible for their
36 lifetime for TANF, even if fraud was committed in only one program.
37 Households who have been determined to have committed fraud or were
38 convicted of the crime of theft pursuant to K.S.A. 39-720 and K.S.A. 2017
39 Supp. 21-5801, and amendments thereto, shall be required to name a
40 protective payee as approved by the secretary or the secretary's designee to
41 administer TANF benefits or food assistance on behalf of the children. No
42 adult in a household may have access to the TANF cash assistance benefit.

43 (B) Any individual that has failed to cooperate with a fraud

1 investigation shall be ineligible to participate in the TANF cash assistance
2 program and the child care subsidy program until the department for
3 children and families determines that such individual is cooperating with
4 the fraud investigation. The department for children and families shall
5 maintain a sufficient level of fraud investigative staff to enable the
6 department to conduct fraud investigations in a timely manner and in full
7 accordance with state law and department rules and regulations or policies.

8 (13) (A) Food assistance shall not be provided to any person
9 convicted of a felony offense occurring on or after July 1, 2015, ~~which~~
10 *that* includes as an element of such offense the manufacture, cultivation,
11 distribution, possession or use of a controlled substance or controlled
12 substance analog. For food assistance, the individual shall be permanently
13 disqualified if they have been convicted of a state or federal felony offense
14 occurring on or after July 1, 2015, involving possession or use of a
15 controlled substance or controlled substance analog.

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

21 An individual's failure to submit to testing or failure to successfully
22 pass a drug test shall result in ineligibility for food assistance until a drug
23 test is successfully passed. Failure to successfully complete a drug
24 treatment program shall result in ineligibility for food assistance until a
25 drug treatment plan approved by the secretary is successfully completed,
26 the individual passes a drug test and agrees to submit to drug testing if
27 requested by the department pursuant to a drug testing plan.

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

31 (14) No TANF cash assistance shall be used to purchase alcohol,
32 cigarettes, tobacco products, lottery tickets, concert tickets, professional or
33 collegiate sporting event tickets or tickets for other entertainment events
34 intended for the general public or sexually oriented adult materials. No
35 TANF cash assistance shall be used in any retail liquor store, casino,
36 gaming establishment, jewelry store, tattoo parlor, massage parlor, body
37 piercing parlor, spa, nail salon, lingerie shop, tobacco paraphernalia store,
38 vapor cigarette store, psychic or fortune telling business, bail bond
39 company, video arcade, movie theater, swimming pool, cruise ship, theme
40 park, dog or horse racing facility, parimutuel facility, or sexually oriented
41 business or any retail establishment ~~which~~ *that* provides adult-oriented
42 entertainment in which performers disrobe or perform in an unclothed
43 state for entertainment, or in any business or retail establishment where

1 minors under age 18 are not permitted. No TANF cash assistance shall be
2 used for purchases at points of sale outside the state of Kansas.

3 (15) (A) The secretary for children and families shall place a
4 photograph of the recipient, if agreed to by such recipient of public
5 assistance, on any Kansas benefits card issued by the Kansas department
6 for children and families that the recipient uses in obtaining food, cash or
7 any other services. When a recipient of public assistance is a minor or
8 otherwise incapacitated individual, a parent or legal guardian of such
9 recipient may have a photograph of such parent or legal guardian placed
10 on the card.

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

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

19 (D) The Kansas department for children and families shall monitor all
20 recipient requests for a Kansas benefits card replacement and, upon the
21 fourth such request in a 12-month period, send a notice alerting the
22 recipient that the recipient's account is being monitored for potential
23 suspicious activity. If a recipient makes an additional request for
24 replacement subsequent to such notice, the department shall refer the
25 investigation to the department's fraud investigation unit.

26 (16) The secretary for children and families shall adopt rules and
27 regulations:

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

30 (B) in determining and maintaining eligibility for non-TANF child
31 care, ~~requiring that all included adults shall be employed a minimum of 20~~
32 ~~hours per week or more as defined by the secretary or meet~~ *providing for*
33 the following specific qualifying exemptions *from work participation*
34 *requirements:*

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

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

41 (iii) adult parents included in a case in which the only child receiving
42 benefits is the child of a minor parent who is working on completion of
43 high school or obtaining a GED;

1 (iv) adults who are participants in a food assistance employment and
2 training program; or

3 (v) adults who are participants in an early head start child care
4 partnership program and are working or in school or training.

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

21 (D) *The Kansas department for children and families shall provide*
22 *child care assistance for up to 30 days to an individual who demonstrates*
23 *to the department that the individual is engaging in job search activities.*

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

34 (B) Each food assistance household member who is not otherwise
35 exempt from the following work requirements shall: Register for work;
36 participate in an employment and training program, if assigned to such a
37 program by the department; accept a suitable employment offer; and not
38 voluntarily quit a job of at least 30 hours per week.

39 (C) Any recipient who has not complied with the work requirements
40 under subparagraph (B) shall be ineligible to participate in the food
41 assistance program for the following time period and until the recipient
42 complies with such work requirements:

43 (i) For a first penalty, three months;

1 (ii) for a second penalty, six months; and

2 (iii) for a third penalty and any subsequent penalty, one year.

3 (18) Eligibility for the food assistance program shall be limited to
4 those individuals who are citizens or who meet qualified non-citizen status
5 as determined by U.S. department of agriculture. Non-citizen individuals
6 who are unable or unwilling to provide qualifying immigrant
7 documentation, as defined by the U.S. department of agriculture, residing
8 within a household shall not be included when determining the household's
9 size for the purposes of assigning a benefit level to the household for food
10 assistance or comparing the household's monthly income with the income
11 eligibility standards. The gross non-exempt earned and unearned income
12 and resources of disqualified individuals shall be counted in its entirety as
13 available to the remaining household members.

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

18 (20) No federal or state funds shall be used for television, radio or
19 billboard advertisements that are designed to promote food assistance
20 benefits and enrollment. No federal or state funding shall be used for any
21 agreements with foreign governments designed to promote food
22 assistance.

23 (21) (A) The secretary for children and families shall not apply gross
24 income standards for food assistance higher than the standards specified in
25 7 U.S.C. § 2015(c) unless expressly required by federal law. Categorical
26 eligibility exempting households from such gross income standards
27 requirements shall not be granted for any non-cash, in-kind or other
28 benefit unless expressly required by federal law.

29 (B) The secretary for children and families shall not apply resource
30 limits standards for food assistance that are higher than the standards
31 specified in 7 U.S.C. § 2015(g)(1) unless expressly required by federal
32 law. Categorical eligibility exempting households from such resource
33 limits shall not be granted for any non-cash, in-kind or other benefit unless
34 expressly required by federal law.

35 (c) (1) On and after January 1, 2017, the department for children and
36 families shall conduct an electronic check for any false information
37 provided on an application for TANF and other benefits programs
38 administered by the department. For TANF cash assistance, food
39 assistance and the child care subsidy program, the department shall verify
40 the identity of all adults in the assistance household.

41 (2) The department of administration shall provide monthly to the
42 Kansas department for children and families the social security numbers or
43 alternate taxpayer identification numbers of all persons who claim a

1 Kansas lottery prize in excess of \$5,000 during the reported month. The
2 Kansas department for children and families shall verify if individuals
3 with such winnings are receiving TANF cash assistance, food assistance or
4 assistance under the child care subsidy program and take appropriate
5 action. The Kansas department for children and families shall use data
6 received under this subsection solely, and for no other purpose, to
7 determine if any recipient's eligibility for benefits has been affected by
8 lottery prize winnings. The Kansas department for children and families
9 shall not publicly disclose the identity of any lottery prize winner,
10 including recipients who are determined to have illegally received
11 benefits.

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

42 (e) *Requirements for medical assistance for which federal moneys or*
43 *state moneys or both are expended.* (1) When the secretary has adopted a

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

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

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

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

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

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

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

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

35 (f) *Eligibility for medical assistance of resident receiving medical*
36 *care outside state.* A person who is receiving medical care including long-
37 term care outside of Kansas whose health would be endangered by the
38 postponement of medical care until return to the state or by travel to return
39 to Kansas, may be determined eligible for medical assistance if such
40 individual is a resident of Kansas and all other eligibility factors are met.
41 Persons who are receiving medical care on an ongoing basis in a long-term
42 medical care facility in a state other than Kansas and who do not return to
43 a care facility in Kansas when they are able to do so, shall no longer be

1 eligible to receive assistance in Kansas unless such medical care is not
2 available in a comparable facility or program providing such medical care
3 in Kansas. For persons who are minors or who are under guardianship, the
4 actions of the parent or guardian shall be deemed to be the actions of the
5 child or ward in determining whether or not the person is remaining
6 outside the state voluntarily.

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

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

41 (B) Notwithstanding the provisions of subparagraph (A), the
42 secretary of health and environment, or the secretary's designee, is hereby
43 authorized to and shall exercise any of the powers specified in

1 subparagraph (A) in relation to performance of such secretary's duties
2 pertaining to medical subrogation, estate recovery or any other duties
3 assigned to such secretary in article 74 of chapter 75 of the Kansas Statutes
4 Annotated, and amendments thereto.

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

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

41 (A) If an individual receives any medical assistance before July 1,
42 2004, pursuant to article 7 of chapter 39 of the Kansas Statutes Annotated,
43 and amendments thereto, ~~which~~ *that* forms the basis for a claim under

1 paragraph (2), such claim is limited to the individual's probatable estate as
2 defined by applicable law; and

3 (B) if an individual receives any medical assistance on or after July 1,
4 2004, pursuant to article 7 of chapter 39 of the Kansas Statutes Annotated,
5 and amendments thereto, ~~which~~ *that* forms the basis for a claim under
6 paragraph (2), such claim shall apply to the individual's medical assistance
7 estate. The medical assistance estate is defined as including all real and
8 personal property and other assets in which the deceased individual had
9 any legal title or interest immediately before or at the time of death to the
10 extent of that interest or title. The medical assistance estate includes,
11 without limitation assets conveyed to a survivor, heir or assign of the
12 deceased recipient through joint tenancy, tenancy in common,
13 survivorship, transfer-on-death deed, payable-on-death contract, life estate,
14 trust, annuities or similar arrangement.

15 (4) The secretary of health and environment or the secretary's
16 designee is authorized to file and enforce a lien against the real property of
17 a recipient of medical assistance in certain situations, subject to all prior
18 liens of record and transfers for value to a bona fide purchaser of record.
19 The lien must be filed in the office of the register of deeds of the county
20 where the real property is located within one year from the date of death of
21 the recipient and must contain the legal description of all real property in
22 the county subject to the lien.

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

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

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

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

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

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

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

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

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

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

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

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

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

43 (8) Within seven days of receipt of notice by the secretary for

1 children and families or the secretary's designee of the death of a recipient
2 of medical assistance under this subsection, the secretary for children and
3 families or the secretary's designee shall give notice of such recipient's
4 death to the secretary of health and environment or the secretary's
5 designee.

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

11 (h) *Placement under the revised Kansas code for care of children or*
12 *revised Kansas juvenile justice code; assignment of support rights and*
13 *limited power of attorney.* In any case in which the secretary for children
14 and families pays for the expenses of care and custody of a child pursuant
15 to K.S.A. 2017 Supp. 38-2201 et seq. or 38-2301 et seq., and amendments
16 thereto, including the expenses of any foster care placement, an
17 assignment of all past, present and future support rights of the child in
18 custody possessed by either parent or other person entitled to receive
19 support payments for the child is, by operation of law, conveyed to the
20 secretary. Such assignment shall become effective upon placement of a
21 child in the custody of the secretary or upon payment of the expenses of
22 care and custody of a child by the secretary without the requirement that
23 any document be signed by the parent or other person entitled to receive
24 support payments for the child. When the secretary pays for the expenses
25 of care and custody of a child or a child is placed in the custody of the
26 secretary, the parent or other person entitled to receive support payments
27 for the child is also deemed to have appointed the secretary, or the
28 secretary's designee, as attorney in fact to perform the specific act of
29 negotiating and endorsing all drafts, checks, money orders or other
30 negotiable instruments representing support payments received by the
31 secretary on behalf of the child. This limited power of attorney shall be
32 effective from the date the assignment to support rights becomes effective
33 and shall remain in effect until the assignment of support rights has been
34 terminated in full.

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

1 (j) If the applicant or recipient of temporary assistance for needy
2 families is a mother of the dependent child, as a condition of the mother's
3 eligibility for temporary assistance for needy families the mother shall
4 identify by name and, if known, by current address the father of the
5 dependent child except that the secretary may adopt by rules and
6 regulations exceptions to this requirement in cases of undue hardship. Any
7 recipient of temporary assistance for needy families who fails to cooperate
8 with requirements relating to child support services under criteria and
9 guidelines prescribed by rules and regulations of the secretary shall be
10 subject to a penalty established by the secretary.

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

33 (l) (1) A program of drug screening for applicants for cash assistance
34 as a condition of eligibility for cash assistance and persons receiving cash
35 assistance as a condition of continued receipt of cash assistance shall be
36 established, subject to applicable federal law, by the secretary for children
37 and families on and before January 1, 2014. Under such program of drug
38 screening, the secretary for children and families shall order a drug
39 screening of an applicant for or a recipient of cash assistance at any time
40 when reasonable suspicion exists that such applicant for or recipient of
41 cash assistance is unlawfully using a controlled substance or controlled
42 substance analog. The secretary for children and families may use any
43 information obtained by the secretary for children and families to

1 determine whether such reasonable suspicion exists, including, but not
2 limited to, an applicant's or recipient's demeanor, missed appointments and
3 arrest or other police records, previous employment or application for
4 employment in an occupation or industry that regularly conducts drug
5 screening, termination from previous employment due to unlawful use of a
6 controlled substance or controlled substance analog or prior drug screening
7 records of the applicant or recipient indicating unlawful use of a controlled
8 substance or controlled substance analog.

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

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

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

1 such applicant for or recipient of cash assistance is the parent or legal
2 guardian of a minor child, an appropriate protective payee shall be
3 designated to receive cash assistance on behalf of such child. Such parent
4 or legal guardian of the minor child may choose to designate an individual
5 to receive cash assistance for such parent's or legal guardian's minor child,
6 as approved by the secretary for children and families. Prior to the
7 designated individual receiving any cash assistance, the secretary for
8 children and families shall review whether reasonable suspicion exists that
9 such designated individual is unlawfully using a controlled substance or
10 controlled substance analog.

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

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

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

40 (5) If a person has been convicted under federal or state law of any
41 offense ~~which~~ that is classified as a felony by the law of the jurisdiction
42 and ~~which~~ that has as an element of such offense the manufacture,
43 cultivation, distribution, possession or use of a controlled substance or

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

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

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

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

20 (9) As used in this subsection:

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

25 (B) "Controlled substance" means the same as in K.S.A. 2017 Supp.
26 21-5701, and amendments thereto, and 21 U.S.C. § 802.

27 (C) "Controlled substance analog" means the same as in K.S.A. 2017
28 Supp. 21-5701, and amendments thereto.

29 Sec. 2. K.S.A. 2017 Supp. 39-709 is hereby repealed.

30 Sec. 3. This act shall take effect and be in force from and after its
31 publication in the statute book.