

HOUSE BILL No. 2740

By Committee on Federal and State Affairs

3-11

1 AN ACT concerning health and healthcare; enacting the Kansas medical
2 marijuana regulation act; relating to medical cannabis; providing for the
3 licensure and regulation of the manufacture, transportation and sale of
4 medical cannabis; providing certain fines and penalties for violations of
5 the act; amending K.S.A. 44-1009, 44-1015, 65-28b08, 79-5201 and
6 79-5210 and K.S.A. 2019 Supp. 21-5703, 21-5705, 21-5706, 21-5707,
7 21-5709, 21-5710, 23-3201, 38-2269, 44-501, 44-706 and 65-1120 and
8 repealing the existing sections.
9

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

11 New Section 1. The provisions of sections 1 through 46, and
12 amendments thereto, shall be known and may be cited as the Kansas
13 medical marijuana regulation act.

14 New Sec. 2. As used in the Kansas medical marijuana regulation act,
15 section 1 et seq., and amendments thereto:

16 (a) "Academic medical center" means a medical school and its
17 affiliated teaching hospitals and clinics.

18 (b) "Associated employee" means an owner or prospective owner,
19 officer or board member or prospective board member of an entity seeking
20 a retail dispensary license.

21 (c) "Board of healing arts" means the state board of healing arts.

22 (d) "Caregiver" means an individual registered pursuant to section 8,
23 and amendments thereto, who may purchase and possess medical
24 marijuana in accordance with section 11, and amendments thereto.

25 (e) "Cultivator" means a person issued a license pursuant to section
26 20, and amendments thereto, who may grow and sell medical marijuana in
27 accordance with section 21, and amendments thereto.

28 (f) "Disqualifying offense" means a criminal offense, the conviction
29 of which renders the offender unfit for registration or licensure under this
30 act.

31 (g) "Distributor" means a person issued a license pursuant to section
32 28, and amendments thereto, who may purchase and sell medical
33 marijuana in accordance with section 30, and amendments thereto.

34 (h) "Electronic cigarette" means the same as defined in K.S.A. 79-
35 3301, and amendments thereto.

36 (i) "Key employee" means a manager or other person responsible for

1 the daily operation of a licensed retail dispensary.

2 (j) "Marijuana" means the same as defined in K.S.A. 65-4101, and
3 amendments thereto.

4 (k) "Medical marijuana" means marijuana that is cultivated,
5 processed, tested, dispensed, possessed or used for a medical purpose.

6 (l) "Owned and controlled" means ownership of at least 51% of the
7 business, including corporate stock if a corporation, control over the
8 management and day-to-day operations of the business and an interest in
9 the capital, assets and profits and losses of the business proportionate to
10 such owner's percentage of ownership.

11 (m) "Patient" means an individual registered pursuant to section 8,
12 and amendments thereto, who may purchase and possess medical
13 marijuana in accordance with section 10, and amendments thereto.

14 (n) "Postsecondary educational institution" means the same as
15 defined in K.S.A. 74-3201b, and amendments thereto.

16 (o) "Processor" means a person issued a license pursuant to section
17 28, and amendments thereto, who may purchase, process and sell medical
18 marijuana in accordance with section 29, and amendments thereto.

19 (p) "Physician" means an individual licensed to practice medicine and
20 surgery in this state and who is certified by the board of healing arts to
21 recommend treatment with medical marijuana pursuant to section 17, and
22 amendments thereto.

23 (q) "Qualifying medical condition" means any of the following:

- 24 (1) Acquired immune deficiency syndrome;
- 25 (2) Alzheimer's disease;
- 26 (3) amyotrophic lateral sclerosis;
- 27 (4) cancer;
- 28 (5) chronic traumatic encephalopathy;
- 29 (6) Crohn's disease;
- 30 (7) epilepsy or another seizure disorder;
- 31 (8) fibromyalgia;
- 32 (9) glaucoma;
- 33 (10) hepatitis C;
- 34 (11) inflammatory bowel disease;
- 35 (12) multiple sclerosis;
- 36 (13) pain that is either chronic and severe or intractable;
- 37 (14) Parkinson's disease;
- 38 (15) positive status for HIV;
- 39 (16) post-traumatic stress disorder;
- 40 (17) sickle cell anemia;
- 41 (18) spinal cord disease or injury;
- 42 (19) Tourette's syndrome;
- 43 (20) traumatic brain injury;

1 (21) ulcerative colitis; or

2 (22) any other disease or condition approved by the secretary of
3 health and environment pursuant to section 19, and amendments thereto.

4 (r) "Retail dispensary" means a person issued a license pursuant to
5 section 31, and amendments thereto, who may purchase and sell medical
6 marijuana in accordance with section 32, and amendments thereto.

7 (s) "Smoking" means the use of a lighted cigarette, cigar or pipe or
8 otherwise burning marijuana in any other form for the purpose of
9 consuming such marijuana.

10 (t) "Support employee" means an individual employed by a licensed
11 retail dispensary who does not have authority to make operational
12 decisions.

13 (u) "Vaporization" means the use of an electronic cigarette for the
14 purpose of consuming marijuana.

15 (v) "Veteran" means a person who:

16 (1) Has served in the army, navy, marine corps, air force, coast guard,
17 air or army national guard or any branch of the military reserves of the
18 United States; and

19 (2) has been separated from the branch of service in which the person
20 was honorably discharged or received a general discharge under honorable
21 conditions.

22 New Sec. 3. (a) No person shall grow, harvest, process, sell, barter,
23 transport, deliver, furnish or otherwise possess any form of marijuana,
24 except as specifically provided in the Kansas medical marijuana regulation
25 act or the commercial industrial hemp act, K.S.A. 2019 Supp. 2-3901 et
26 seq., and amendments thereto.

27 (b) Nothing in the Kansas medical marijuana regulation act shall be
28 construed to:

29 (1) Require a physician to recommend that a patient use medical
30 marijuana to treat a qualifying medical condition;

31 (2) permit the use, possession or administration of medical marijuana
32 other than as authorized by this act;

33 (3) permit the use, possession or administration of medical marijuana
34 on federal land located in this state;

35 (4) require any public place to accommodate a registered patient's use
36 of medical marijuana;

37 (5) prohibit any public place from accommodating a registered
38 patient's use of medical marijuana; or

39 (6) restrict research related to marijuana conducted at a postsecondary
40 educational institution, academic medical center or private research and
41 development organization as part of a research protocol approved by an
42 institutional review board or equivalent entity.

43 New Sec. 4. (a) There is hereby established a Kansas medical

1 marijuana regulation program.

2 (b) The secretary of health and environment shall administer the
3 program in accordance with the provisions of this act and provide for the
4 registration of patients and caregivers, including the issuance of
5 identification cards to registered patients and caregivers.

6 (c) The secretary of agriculture shall administer the program in
7 accordance with the provisions of this act and provide for the licensure of
8 cultivators and laboratories that test medical marijuana.

9 (d) The director of alcoholic beverage control shall administer the
10 program in accordance with the provisions of this act and provide for the
11 licensure of processors, distributors and retail dispensaries.

12 New Sec. 5. (a) The medical marijuana advisory committee is hereby
13 created in the department of health and environment. The committee shall
14 consist of the following:

15 (1) Eight members appointed by the governor as follows:

16 (A) Two members who are practicing pharmacists, at least one of
17 whom supports the use of medical marijuana and at least one of whom is a
18 member of the state board of pharmacy;

19 (B) two members who are practicing physicians, at least one of whom
20 supports the use of medical marijuana and at least one of whom is a
21 member of the board of healing arts;

22 (C) one member who represents employers;

23 (D) one member who represents agriculture;

24 (E) one member who represents persons involved in the treatment of
25 alcohol and drug addiction; and

26 (F) one member who engages in academic research on the use or
27 regulation of medical marijuana;

28 (2) two members appointed by the president of the senate as follows:

29 (A) One member who represents law enforcement; and

30 (B) one member who represents caregivers;

31 (3) one member, who is a nurse, appointed by the minority leader of
32 the senate;

33 (4) two members appointed by the speaker of the house of
34 representatives as follows:

35 (A) One member who represents persons involved in mental health
36 treatment; and

37 (B) one member who represents patients;

38 (5) one member, who represents employees, appointed by the
39 minority leader of the house of representatives; and

40 (6) the secretary of health and environment, who shall serve as
41 chairperson.

42 (b) The initial appointments to the committee shall be made on or
43 before July 31, 2020.

1 (c) Except for the secretary of health and environment, each member
2 of the committee shall serve from the date of appointment until the
3 committee ceases to exist, except that members shall serve at the pleasure
4 of the appointing authority. A vacancy shall be filled in the same manner
5 as the original appointment.

6 (d) Each member of the committee shall be paid compensation,
7 subsistence allowances, mileage and other expenses as provided in K.S.A.
8 75-3223(e), and amendments thereto.

9 (e) The committee shall hold its initial meeting not later than 30 days
10 after the last member of the committee is appointed. The committee may
11 develop and submit to the secretary of health and environment, the
12 secretary of agriculture and the director of alcoholic beverage control any
13 recommendations related to the Kansas medical marijuana regulation
14 program and the implementation and enforcement of this act.

15 (f) The medical marijuana advisory committee shall develop policies
16 and procedures for the review, approval and denial of petitions for
17 approval of a qualifying medical condition submitted pursuant to section
18 19, and amendments thereto.

19 (g) The medical marijuana advisory committee shall make
20 recommendations to the secretary of health and environment, the secretary
21 of agriculture and the director of alcoholic beverage control regarding
22 those offenses that would disqualify an applicant from registration or
23 licensure by the respective state agency. The committee shall annually
24 review such offenses and make any subsequent recommendations the
25 committee deems necessary.

26 (h) The provisions of this section shall expire on July 1, 2025.

27 New Sec. 6. (a) Except as permitted under subsection (c), the
28 following individuals shall not solicit or accept, directly or indirectly, any
29 gift, gratuity, emolument or employment from any person who is an
30 applicant for any license or is a licensee under the provisions of the Kansas
31 medical marijuana regulation act or any officer, agent or employee thereof,
32 or solicit requests from or recommend, directly or indirectly, to any such
33 person, the appointment of any individual to any place or position:

34 (1) The secretary of health and environment or any officer, employee
35 or agent of the department of health and environment;

36 (2) the secretary of agriculture or any officer, employee or agency of
37 the department of agriculture;

38 (3) the secretary of revenue, the director of alcoholic beverage control
39 or any officer, employee or agent of the division of alcoholic beverage
40 control; or

41 (4) any member of the board of healing arts.

42 (b) Except as permitted under subsection (c), an applicant for a
43 license or a licensee under the provisions of the Kansas medical marijuana

1 regulation act shall not offer any gift, gratuity, emolument or employment
2 to any of the following:

3 (1) The secretary of health and environment or any officer, employee
4 or agent of the department of health and environment;

5 (2) the secretary of agriculture or any officer, employee or agency of
6 the department of agriculture;

7 (3) the secretary of revenue, the director of alcoholic beverage control
8 or any officer, employee or agent of the division of alcoholic beverage
9 control; or

10 (4) any member of the board of healing arts.

11 (c) The board of healing arts and the secretaries of health and
12 environment, agriculture and revenue may adopt rules and regulations for
13 their respective agencies allowing the acceptance of official hospitality by
14 members of the board of healing arts or the respective secretary and
15 employees of each such respective agency, subject to any limits as
16 prescribed by such rules and regulations.

17 (d) If any member of the board of healing arts, the secretary of health
18 and environment, the secretary of agriculture, the secretary of revenue or
19 any employee of each such respective agency violates any provision of this
20 section, such person shall be removed from such person's office or
21 employment.

22 (e) Violation of any provision of this section is a misdemeanor
23 punishable by a fine of not to exceed \$500 or imprisonment of not less
24 than 60 days nor more than six months, or both such fine and
25 imprisonment.

26 (f) Nothing in this section shall be construed to prohibit the
27 prosecution and punishment of any person for bribery as defined in the
28 Kansas criminal code.

29 New Sec. 7. All actions taken by the board of healing arts, the
30 secretary of health and environment, the secretary of agriculture or the
31 director of alcoholic beverage control under the Kansas medical marijuana
32 regulation act shall be in accordance with the Kansas administrative
33 procedure act and reviewable in accordance with the Kansas judicial
34 review act.

35 New Sec. 8. (a) A patient seeking to use medical marijuana or a
36 caregiver seeking to assist a patient in the use or administration of medical
37 marijuana shall apply to the department of health and environment for
38 registration. The physician who is treating the patient, or such physician's
39 designee, shall submit the application on the patient's or caregiver's behalf
40 in such form and manner as prescribed by the secretary of health and
41 environment.

42 (b) The application for registration shall include the following:

43 (1) A statement from the physician certifying that:

1 (A) A bona fide physician-patient relationship exists between the
2 physician and patient;

3 (B) the patient has been diagnosed with a qualifying medical
4 condition;

5 (C) the physician, or such physician's designee, has requested from
6 the prescription monitoring program database a report of information
7 related to the patient that covers at least the 12 months immediately
8 preceding the date of the report;

9 (D) the physician has informed the patient of the risks and benefits of
10 medical marijuana as it pertains to the patient's qualifying medical
11 condition and medical history; and

12 (E) the physician has informed the patient that it is the physician's
13 opinion that the benefits of medical marijuana outweigh its risks;

14 (2) in the case of an application submitted on behalf of a patient, the
15 name or names of one or more caregivers, if any, who will assist the
16 patient in the use or administration of medical marijuana;

17 (3) in the case of an application submitted on behalf of a caregiver,
18 the name of the patient or patients whom the caregiver seeks to assist in
19 the use or administration of medical marijuana; and

20 (4) in the case of a patient who is a minor, the name of the patient's
21 parent or legal guardian who has consented to treatment with medical
22 marijuana and who shall be designated as the patient's caregiver.

23 (c) If the application is complete and meets the requirements of this
24 act and rules and regulations adopted thereunder and the patient or
25 caregiver has paid the required fee, the secretary of health and
26 environment shall register the patient or caregiver and issue to the patient
27 or caregiver an identification card.

28 (d) (1) A registered caregiver must be at least 21 years of age, except
29 that, if the caregiver is the parent or legal guardian of a patient who is a
30 minor, then the registered caregiver must be at least 18 years of age.

31 (2) A registered patient may designate up to two registered
32 caregivers. If the patient is a minor, a parent or legal guardian of such
33 patient shall be designated as a registered caregiver for such patient.

34 (3) A registered caregiver may provide assistance to not more than
35 two registered patients, unless the secretary approves a greater number of
36 registered patients.

37 (4) A physician who submits an application on behalf of a patient
38 may not also serve as such patient's registered caregiver.

39 (e) Any information collected by the department of health and
40 environment pursuant to this section is confidential and not a public
41 record. The department may share information identifying a specific
42 patient with a licensed retail dispensary or any law enforcement agency for
43 the purpose of confirming that such patient has a valid registration.

1 Information that does not identify a person may be released in summary,
2 statistical or aggregate form. The provisions of this subsection shall expire
3 on July 1, 2025, unless the legislature reviews and reenacts such
4 provisions in accordance with K.S.A. 45-229, and amendments thereto,
5 prior to July 1, 2025.

6 (f) The fees for a patient or caregiver registration, or the renewal
7 thereof, shall be set by rules and regulations adopted by the secretary of
8 health and environment in an amount not to exceed:

9 (1) Except as specified in paragraph (2), \$50 for a patient registration;

10 (2) \$25 for a patient registration if the patient is indigent or is a
11 veteran; and

12 (3) \$25 for a caregiver registration.

13 (g) A registration shall be valid for a period of one year from the date
14 the identification card is issued and may be renewed by submitting a
15 registration renewal application and paying the required fee.

16 New Sec. 9. The department of health and environment shall assign a
17 unique 24-character identification number to each registered patient and
18 caregiver when issuing an identification card. Licensed retail dispensaries
19 may request verification by the department that a patient or caregiver has a
20 valid registration.

21 New Sec. 10. (a) A patient registered pursuant to section 8, and
22 amendments thereto, who obtains medical marijuana from a licensed retail
23 dispensary may:

24 (1) Use medical marijuana;

25 (2) subject to subsection (b), possess medical marijuana; and

26 (3) possess any paraphernalia or accessories as specified in rules and
27 regulations adopted by the secretary of health and environment.

28 (b) A registered patient may possess medical marijuana in an amount
29 not to exceed a 90-day supply.

30 (c) Nothing in this section shall be construed to authorize a registered
31 patient to operate a motor vehicle, watercraft or aircraft while under the
32 influence of medical marijuana.

33 New Sec. 11. (a) A caregiver registered pursuant to section 8, and
34 amendments thereto, who obtains medical marijuana from a licensed retail
35 dispensary may:

36 (1) Subject to subsection (b), possess medical marijuana on behalf of
37 a registered patient under the caregiver's care;

38 (2) assist a registered patient under the caregiver's care in the use or
39 administration of medical marijuana; and

40 (3) possess any paraphernalia or accessories as specified in rules and
41 regulations adopted by the secretary of health and environment.

42 (b) A registered caregiver may possess medical marijuana on behalf
43 of a registered patient in an amount not to exceed a 90-day supply. If a

1 caregiver provides care to more than one registered patient, the caregiver
2 shall maintain separate inventories of medical marijuana for each patient.

3 (c) Nothing in this section shall be construed to permit a registered
4 caregiver to personally use medical marijuana unless the caregiver is also a
5 registered patient.

6 New Sec. 12. (a) In addition to or in lieu of any other civil or criminal
7 penalty as provided by law, the secretary of health and environment may
8 impose a civil penalty or suspend or revoke a registration upon a finding
9 that the patient or caregiver committed a violation as provided in this
10 section.

11 (b) Nothing in this act shall be construed to require the secretary to
12 enforce minor violations if the secretary determines that the public interest
13 is adequately served by a notice or warning to the alleged offender.

14 (c) Upon a finding that a registrant has submitted fraudulent
15 information or otherwise falsified or misrepresented information required
16 to be submitted by such registrant, the secretary may impose a civil fine of
17 not to exceed \$500 for a first offense and may suspend or revoke the
18 individual's registration for a second or subsequent offense.

19 (d) If the secretary suspends, revokes or refuses to renew any
20 registration issued pursuant to this act and determines that there is clear
21 and convincing evidence of a danger of immediate and serious harm to any
22 person, the secretary may place under seal all medical marijuana owned by
23 or in the possession, custody or control of the affected registrant. Except as
24 provided in this section, the secretary shall not dispose of the sealed
25 medical marijuana until a final order is issued authorizing such disposition.
26 During the pendency of an appeal from any order issued by the secretary, a
27 court may order the secretary to sell medical marijuana that is perishable,
28 and the proceeds of any such sale shall be deposited with the court.

29 New Sec. 13. (a) There is hereby established the medical marijuana
30 registration fund in the state treasury. The secretary of health and
31 environment shall administer the medical marijuana registration fund and
32 shall remit all moneys collected from the payment of all fees and fines
33 imposed by the secretary pursuant to the Kansas medical marijuana
34 regulation act and any other moneys received by or on behalf of the
35 secretary pursuant to such act to the state treasurer in accordance with the
36 provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of
37 each such remittance, the state treasurer shall deposit the entire amount in
38 the state treasury to the credit of the medical marijuana registration fund.
39 Moneys credited to the medical marijuana registration fund shall only be
40 expended or transferred as provided in this section. Expenditures from
41 such fund shall be made in accordance with appropriation acts upon
42 warrants of the director of accounts and reports issued pursuant to
43 vouchers approved by the secretary or the secretary's designee.

1 (b) Moneys in the medical marijuana registration fund shall be used
2 for the payment or reimbursement of costs related to the regulation and
3 enforcement of the possession and use of medical marijuana by the
4 secretary.

5 New Sec. 14. (a) On or before July 1, 2021, the secretary of health
6 and environment shall adopt rules and regulations to administer the Kansas
7 medical marijuana regulation program and implement and enforce the
8 provisions of the Kansas medical marijuana regulation act. Such rules and
9 regulations shall:

10 (1) Establish procedures for registration of patients and caregivers
11 and eligibility requirements for registration;

12 (2) establish procedures for the issuance of patient or caregiver
13 identification cards;

14 (3) establish a renewal schedule, renewal procedures and renewal
15 fees for registrations;

16 (4) specify, by form and tetrahydrocannabinol content, a maximum
17 90-day supply of medical marijuana that may be possessed;

18 (5) specify the paraphernalia or other accessories that may be used in
19 the administration to a registered patient of medical marijuana;

20 (6) specify the forms or methods of using medical marijuana that are
21 attractive to children;

22 (7) establish procedures for reviewing, approving and denying
23 petitions for approval of new forms or methods of using medical
24 marijuana;

25 (8) establish a program to assist patients who are indigent or who are
26 veterans in obtaining medical marijuana; and

27 (9) establish procedures for reviewing, approving and denying a
28 petition for approval of a qualifying medical condition submitted pursuant
29 to section 19, and amendments thereto.

30 (b) When adopting rules and regulations under this section, the
31 secretary shall consider standards and procedures that have been found to
32 be best practices relative to the use and regulation of medical marijuana.

33 New Sec. 15. On or before July 1, 2021, the department of health and
34 environment shall make a website available for the public to access
35 information regarding patient and caregiver registration under the Kansas
36 medical marijuana regulation act.

37 New Sec. 16. (a) The secretary of health and environment shall
38 negotiate in good faith to enter into a reciprocity agreement with any other
39 state under which a medical marijuana registry identification card or
40 equivalent authorization that is issued by the other state is recognized in
41 this state. A reciprocity agreement may be entered into only if the secretary
42 determines that the following apply:

43 (1) The eligibility requirements imposed by the other state for

1 authorization to purchase, possess and use medical marijuana are
2 substantially comparable to the eligibility requirements for a patient or
3 caregiver registration and identification card issued under section 8, and
4 amendments thereto; and

5 (2) the other state recognizes a patient or caregiver registration and
6 identification card issued under section 8, and amendments thereto.

7 (b) If a reciprocity agreement is entered into in accordance with this
8 section, the authorization issued by the other state shall be recognized in
9 this state, shall be accepted and valid in this state and shall grant the
10 patient or caregiver the same right to use, possess, obtain or administer
11 medical marijuana in this state as a patient or caregiver who was registered
12 and issued an identification card under section 8, and amendments thereto.

13 New Sec. 17. (a) Except as provided in subsection (j), a physician
14 seeking to recommend treatment with medical marijuana shall apply to the
15 board of healing arts for a certificate authorizing such physician to
16 recommend treatment with medical marijuana. The application shall be
17 submitted in such form and manner as prescribed by the board. The board
18 shall grant a certificate to recommend if the following conditions are
19 satisfied:

20 (1) The application is complete and meets the requirements
21 established in rules and regulations adopted by the board of healing arts;
22 and

23 (2) the applicant demonstrates that the applicant does not have an
24 ownership or investment interest in or compensation arrangement with an
25 entity licensed by the department of health and environment, the
26 department of agriculture or the director of alcoholic beverage control
27 under this act or an applicant for such licensure.

28 (b) A certificate to recommend shall be renewed when the holder's
29 license to practice medicine and surgery is renewed, conditioned upon the
30 holder's certification of having met the requirements in subsection (a) and
31 having completed at least two hours of continuing medical education in
32 medical marijuana annually in accordance with subsection (g).

33 (c) A physician who holds a certificate to recommend treatment with
34 medical marijuana may recommend that a patient be treated with medical
35 marijuana if:

36 (1) The patient has been diagnosed with a qualifying medical
37 condition;

38 (2) a bona fide physician-patient relationship has existed for a
39 minimum of 12 months, or as otherwise specified by rules and regulations
40 adopted by the board;

41 (3) an in-person physical examination of the patient was performed
42 by the physician; and

43 (4) the physician, or the physician's designee, has requested from the

1 prescription monitoring program database a report of information related
2 to the patient that covers at least the 12 months immediately preceding the
3 date of the report, and the physician has reviewed such report.

4 (d) In the case of a patient who is a minor, the physician may
5 recommend treatment with medical marijuana only after obtaining the
6 consent of the patient's parent or other person responsible for providing
7 consent to treatment.

8 (e) When issuing a written recommendation to a patient, the
9 physician shall specify any information required by rules and regulations
10 adopted by the board of healing arts. A written recommendation issued to a
11 patient under this section is valid for a period of not more than 90 days.
12 The physician may renew the recommendation for not more than three
13 additional periods of not more than 90 days each. Thereafter, the physician
14 may issue another recommendation to the patient only upon a physical
15 examination of the patient.

16 (f) Each year a physician holding a certificate to recommend
17 treatment with medical marijuana shall submit to the board of healing arts
18 a report that describes the physician's observations regarding the
19 effectiveness of medical marijuana in treating the physician's patients
20 during the year covered by the report. When submitting reports, a
21 physician shall not include any information that identifies or would tend to
22 identify any specific patient.

23 (g) Annually, each physician who holds a certificate to recommend
24 treatment with medical marijuana shall complete at least two hours of
25 continuing medical education in the treatment with and use of medical
26 marijuana as approved by the board of healing arts.

27 (h) A physician shall not issue a recommendation for treatment with
28 medical marijuana for a family member or the physician's self, or
29 personally furnish or otherwise dispense medical marijuana.

30 (i) A physician who holds a certificate to recommend treatment with
31 medical marijuana shall be immune from civil liability, shall not be subject
32 to professional disciplinary action by the board of healing arts and shall
33 not be subject to criminal prosecution for any of the following actions:

34 (1) Advising a patient, patient representative or caregiver about the
35 benefits and risks of medical marijuana to treat a qualifying medical
36 condition;

37 (2) recommending that a patient use medical marijuana to treat or
38 alleviate a qualifying medical condition; and

39 (3) monitoring a patient's treatment with medical marijuana.

40 (j) This section shall not apply to a physician who recommends
41 treatment with marijuana or a drug derived from marijuana under any of
42 the following that is approved by an institutional review board or
43 equivalent entity, the United States food and drug administration or the

1 national institutes of health or one of its cooperative groups or centers
2 under the United States department of health and human services:

- 3 (1) A research protocol;
- 4 (2) a clinical trial;
- 5 (3) an investigational new drug application; or
- 6 (4) an expanded access submission.

7 New Sec. 18. (a) On or before July 1, 2021, the board of healing arts
8 shall adopt rules and regulations to implement and enforce the provisions
9 of section 17, and amendments thereto. Such rules and regulations shall
10 include:

- 11 (1) The procedures for applying for a certificate to recommend
12 treatment with medical marijuana;
- 13 (2) the conditions for eligibility for a certificate to recommend
14 treatment with medical marijuana;
- 15 (3) the schedule and procedures for renewing such a certificate;
- 16 (4) the reasons for which a certificate may be suspended or revoked;
- 17 (5) the standards under which a certificate suspension may be lifted;
- 18 and
- 19 (6) the minimum standards of care when recommending treatment
20 with medical marijuana.

21 (b) The board of healing arts shall approve one or more continuing
22 medical education courses of study that assist physicians holding
23 certificates to recommend treatment with medical marijuana in diagnosing
24 and treating qualifying medical conditions with medical marijuana.

25 New Sec. 19. (a) Any person may submit a petition to the medical
26 marijuana advisory committee requesting that a disease or condition be
27 added as a qualifying medical condition for the purposes of this act. The
28 petition shall be submitted in such form and manner as prescribed by the
29 secretary of health and environment. A petition shall not seek to add a
30 broad category of diseases or conditions, but shall be limited to one
31 disease or condition and shall include a description of such disease or
32 condition.

33 (b) Upon receipt of a petition, the committee shall review such
34 petition to determine whether to recommend the approval or denial of the
35 disease or condition described in the petition as an addition to the list of
36 qualifying medical conditions. The committee may consolidate the review
37 of petitions for the same or similar diseases or conditions. In making its
38 determination, the committee shall:

- 39 (1) Consult with one or more experts who specialize in the study of
40 the disease or condition;
- 41 (2) review any relevant medical or scientific evidence pertaining to
42 the disease or condition;
- 43 (3) consider whether conventional medical therapies are insufficient

1 to treat or alleviate the disease or condition;

2 (4) review evidence supporting the use of medical marijuana to treat
3 or alleviate the disease or condition; and

4 (5) review any letters of support provided by physicians with
5 knowledge of the disease or condition, including any letter provided by a
6 physician treating the petitioner.

7 (c) Upon completion of its review, the committee shall make a
8 recommendation to the secretary of health and environment whether to
9 approve or deny the addition of the disease or condition to the list of
10 qualifying medical conditions. The secretary shall adopt rules and
11 regulations in accordance with the recommendation of the committee.

12 New Sec. 20. (a) Any entity that seeks to cultivate medical marijuana
13 or to conduct laboratory testing of medical marijuana shall submit an
14 application for the appropriate license to the department of agriculture in
15 such form and manner as prescribed by the secretary of agriculture. A
16 separate license application shall be submitted for each location to be
17 operated by the licensee.

18 (b) The secretary shall issue a license to an applicant if:

19 (1) The criminal history record check conducted pursuant to section
20 43, and amendments thereto, with respect to the applicant demonstrates the
21 following:

22 (A) Subject to subparagraph (B), that the individual subject to the
23 criminal history record check requirement has not been convicted of or
24 pleaded guilty to any of the disqualifying offenses as specified in rules and
25 regulations adopted by the secretary; or

26 (B) that the disqualifying offense such individual was convicted of or
27 pleaded guilty to is one of the offenses specified in rules and regulations as
28 one that will not disqualify the applicant if the applicant was convicted of
29 or pleaded guilty to the offense more than five years prior to the date the
30 application for licensure is submitted;

31 (2) the applicant is not applying for a laboratory license and
32 demonstrates that it does not have an ownership or investment interest in
33 or compensation arrangement with a laboratory licensed under this section
34 or an applicant for such license;

35 (3) the applicant is not applying for a laboratory license and
36 demonstrates that it does not share any corporate officers or employees
37 with a laboratory licensed under this section or an applicant for such
38 license;

39 (4) the applicant demonstrates that it will not violate the provisions of
40 section 42, and amendments thereto;

41 (5) the applicant has submitted a tax clearance certificate issued by
42 the department of revenue; and

43 (6) the applicant meets all other licensure eligibility conditions

1 established in rules and regulations adopted by the secretary and has paid
2 all required fees.

3 (c) The secretary shall issue not less than 15% of cultivator and
4 laboratory licenses to entities that are owned and controlled by United
5 States citizens who are residents of this state and are members of one of
6 the following economically disadvantaged groups: Blacks or African
7 Americans, American Indians, Hispanics or Latinos and Asians. If no
8 applications or an insufficient number of applications are submitted by
9 such entities that meet the conditions set forth in subsection (b), licenses
10 shall be issued in accordance with subsections (a) and (b).

11 (d) A license shall be valid for a period of one year from the date such
12 license is issued and may be renewed by submitting a license renewal
13 application and paying the required fee.

14 New Sec. 21. (a) (1) A level I cultivator licensee may cultivate
15 medical marijuana in an area that shall not exceed 25,000 square feet and
16 may deliver or sell medical marijuana to one or more licensed processors.

17 (2) A level II cultivator licensee may cultivate medical marijuana in
18 an area that shall not exceed 3,000 square feet and may deliver or sell
19 medical marijuana to one or more licensed processors.

20 (b) (1) A licensee may submit an application to the department of
21 agriculture for approval of an expansion of such licensee's cultivation area.
22 Expansion approval applications shall be submitted in such form and
23 manner as prescribed by the secretary and shall include an expansion plan
24 that shall include the following:

25 (A) Specifications for the expansion or alteration that demonstrate
26 compliance with all applicable zoning ordinances, building codes and any
27 other state and local laws and rules and regulations adopted thereunder;

28 (B) a proposed timeline for completion of the expansion that, if
29 approved, will become a mandatory condition; and

30 (C) a history of compliance with the Kansas medical marijuana
31 regulation act and all rules and regulations adopted thereunder, including a
32 history of enforcement actions and sanctions issued by the department or
33 any law enforcement agency against the licensee.

34 (2) The secretary shall review all expansion approval applications. In
35 determining whether to approve or deny any application, the secretary
36 shall consider the population of this state and the number of patients
37 seeking to use medical marijuana. No licensee may submit an application
38 for expansion more than once during any 12-month period.

39 (3) In no event shall the aggregate area of cultivation of a licensee
40 exceed 75,000 square feet if the licensee holds a level I cultivator license
41 or 9,000 square feet if the licensee holds a level II cultivator license.

42 (c) When establishing the number of cultivator licenses that will be
43 permitted at any one time, the secretary shall consider the population of

1 this state and the number of patients seeking to use medical marijuana.
2 (d) A licensed cultivator shall not cultivate medical marijuana for
3 personal, family or household use or on any public land.

4 New Sec. 22. (a) A laboratory licensee may:

5 (1) Obtain medical marijuana from one or more licensed cultivators,
6 processors or retail dispensaries; and

7 (2) conduct medical marijuana testing in accordance with rules and
8 regulations adopted by the secretary of agriculture.

9 (b) When testing medical marijuana, a licensed laboratory shall:

10 (1) Test the marijuana for potency, homogeneity and contamination;
11 and

12 (2) prepare and submit a report of the test results to the licensee
13 requesting such testing.

14 New Sec. 23. (a) The fees for a cultivator license shall be set by rules
15 and regulations adopted by the secretary of agriculture in an amount not to
16 exceed:

17 (1) (A) \$20,000 for a level I cultivator license application;

18 (B) \$180,000 for a level I cultivator license; and

19 (C) \$200,000 for a renewal of a level I cultivator license; and

20 (2) (A) \$2,000 for a level II cultivator license application;

21 (B) \$18,000 for a level II cultivator license; and

22 (C) \$20,000 for a renewal of a level II cultivator license.

23 (b) The fees for a laboratory license shall be set by rules and
24 regulations adopted by the secretary of agriculture in an amount not to
25 exceed:

26 (1) \$2,000 for a laboratory license application;

27 (2) \$18,000 for a laboratory license; and

28 (3) \$20,000 for a renewal of a laboratory license.

29 New Sec. 24. The secretary of agriculture may refuse to issue or
30 renew a license, or may revoke or suspend a license for any of the
31 following reasons:

32 (a) The applicant has failed to comply with any provision of the
33 Kansas medical marijuana regulation act or any rules and regulations
34 adopted thereunder;

35 (b) the applicant has falsified or misrepresented any information
36 submitted to the secretary in order to obtain a license;

37 (c) the applicant has failed to adhere to any acknowledgment,
38 verification or other representation made to the secretary when applying
39 for a license; or

40 (d) the applicant has failed to submit or disclose information
41 requested by the secretary.

42 New Sec. 25. (a) In addition to or in lieu of any other civil or criminal
43 penalty as provided by law, the secretary of agriculture may impose a civil

1 penalty or suspend or revoke a license upon a finding that the licensee
2 committed a violation as provided in this section.

3 (b) (1) Upon a finding that a licensee has submitted fraudulent
4 information or otherwise falsified or misrepresented information required
5 to be submitted by such licensee, the secretary may impose a civil fine not
6 to exceed \$5,000 for a first offense and may suspend or revoke such
7 licensee's license for a second or subsequent offense.

8 (2) Upon a finding that a licensee has sold, transferred or otherwise
9 distributed medical marijuana in violation of this act, the secretary may
10 impose a civil fine not to exceed \$5,000 for a first offense and may
11 suspend or revoke such licensee's license for a second or subsequent
12 offense.

13 (c) If the secretary suspends, revokes or refuses to renew any license
14 issued pursuant to this act and determines that there is clear and
15 convincing evidence of a danger of immediate and serious harm to any
16 person, the secretary may place under seal all medical marijuana owned by
17 or in the possession, custody or control of the affected license holder.
18 Except as provided in this section, the secretary shall not dispose of the
19 sealed medical marijuana until a final order is issued authorizing such
20 disposition. During the pendency of an appeal from any order by the
21 secretary, a court may order the secretary to sell medical marijuana that is
22 perishable, and the proceeds of any such sale shall be deposited with the
23 court.

24 New Sec. 26. (a) There is hereby established the medical marijuana
25 cultivation regulation fund in the state treasury. The secretary of
26 agriculture shall administer the medical marijuana cultivation regulation
27 fund and shall remit all moneys collected from the payment of all fees and
28 fines imposed by the secretary pursuant to the Kansas medical marijuana
29 regulation act and any other moneys received by or on behalf of the
30 secretary pursuant to such act to the state treasurer in accordance with the
31 provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of
32 each such remittance, the state treasurer shall deposit the entire amount in
33 the state treasury to the credit of the medical marijuana cultivation
34 regulation fund. Moneys credited to the medical marijuana cultivation
35 regulation fund shall only be expended or transferred as provided in this
36 section. Expenditures from such fund shall be made in accordance with
37 appropriation acts upon warrants of the director of accounts and reports
38 issued pursuant to vouchers approved by the secretary or the secretary's
39 designee.

40 (b) Moneys in the medical marijuana cultivation regulation fund shall
41 be used for the payment or reimbursement of costs related to the regulation
42 and enforcement of the cultivation, possession, testing and sale of medical
43 marijuana by the department of agriculture.

1 New Sec. 27. (a) On or before July 1, 2021, the secretary of
 2 agriculture shall adopt rules and regulations to administer the Kansas
 3 medical marijuana regulation program and implement and enforce the
 4 provisions of the Kansas medical marijuana regulation act. Such rules and
 5 regulations shall:

6 (1) Establish application procedures and fees for licenses issued
 7 under section 20, and amendments thereto;

8 (2) specify the following:

9 (A) The conditions for eligibility for licensure;

10 (B) subject to paragraph (C), the criminal offenses for which an
 11 applicant will be disqualified from licensure; and

12 (C) the criminal offenses that will not disqualify an applicant from
 13 licensure if the applicant was convicted of or pleaded guilty to the offense
 14 more than five years prior to the date the application for licensure is filed;

15 (3) establish the number of cultivator licenses that will be permitted
 16 at any one time in accordance with section 21, and amendments thereto;

17 (4) establish a license renewal schedule, renewal procedures and
 18 renewal fees; and

19 (5) establish standards and procedures for the testing of medical
 20 marijuana by a licensed laboratory.

21 (b) When adopting rules and regulations under this section, the
 22 secretary shall consider standards and procedures that have been found to
 23 be best practices relative to the use and regulation of medical marijuana.

24 New Sec. 28. (a) Any entity that seeks to process or distribute
 25 medical marijuana shall submit an application for the appropriate license
 26 to the director of alcoholic beverage control in such form and manner as
 27 prescribed by the director. A separate license application shall be submitted
 28 for each location to be operated by the licensee.

29 (b) The director shall issue a license to an applicant if:

30 (1) The criminal history record check conducted pursuant to section
 31 43, and amendments thereto, with respect to the applicant demonstrates the
 32 following:

33 (A) Subject to subparagraph (B), that the individual subject to the
 34 criminal history record check requirement has not been convicted of or
 35 pleaded guilty to any of the disqualifying offenses as specified in rules and
 36 regulations adopted by the secretary; or

37 (B) that the disqualifying offense such individual was convicted of or
 38 pleaded guilty to is one of the offenses specified in rules and regulations as
 39 one that will not disqualify the applicant if the applicant was convicted of
 40 or pleaded guilty to the offense more than five years prior to the date the
 41 application for licensure is submitted;

42 (2) the applicant demonstrates that it does not have an ownership or
 43 investment interest in or compensation arrangement with a laboratory

1 licensed under section 20, and amendments thereto, or an applicant for
2 such license;

3 (3) the applicant demonstrates that it does not share any corporate
4 officers or employees with a laboratory licensed under section 20, and
5 amendments thereto, or an applicant for such license;

6 (4) the applicant demonstrates that it will not violate the provisions of
7 section 42, and amendments thereto;

8 (5) the applicant has submitted a tax clearance certificate issued by
9 the department of revenue; and

10 (6) the applicant meets all other licensure eligibility conditions
11 established in rules and regulations adopted by the secretary and has paid
12 all required fees.

13 (c) The director shall issue not less than 15% of processor and
14 distributor licenses to entities that are owned and controlled by United
15 States citizens who are residents of this state and are members of one of
16 the following economically disadvantaged groups: Blacks or African
17 Americans, American Indians, Hispanics or Latinos and Asians. If no
18 applications or an insufficient number of applications are submitted by
19 such entities that meet the conditions set forth in subsection (b), licenses
20 shall be issued in accordance with subsections (a) and (b).

21 (d) A license shall be valid for a period of one year from the date such
22 license is issued, and may be renewed by submitting a license renewal
23 application and paying the required fee.

24 New Sec. 29. (a) A processor licensee may:

25 (1) Obtain medical marijuana from one or more licensed cultivators
26 or processors;

27 (2) subject to subsection (b), process medical marijuana obtained
28 from one or more licensed cultivators into a form described in section 20,
29 and amendments thereto; and

30 (3) deliver or sell processed medical marijuana to one or more
31 licensed processors, distributors or retail dispensaries.

32 (b) When processing medical marijuana, a licensed processor shall:

33 (1) Package the medical marijuana in accordance with child-resistant
34 effectiveness standards described in 16 C.F.R. § 1700.15(b) in effect on
35 July 1, 2020;

36 (2) label the medical marijuana packaging with the product's
37 tetrahydrocannabinol and cannabidiol content; and

38 (3) comply with any packaging or labeling requirements established
39 by rules and regulations adopted by the secretary of revenue.

40 (c) When establishing the number of processor licenses that will be
41 permitted at any one time, the director of alcoholic beverage control shall
42 consider the population of this state and the number of patients seeking to
43 use medical marijuana.

1 New Sec. 30. (a) A distributor licensee may:

2 (1) Purchase at wholesale medical marijuana from one or more
3 licensed processors;

4 (2) store medical marijuana obtained from one or more licensed
5 processors in a form described in section 33, and amendments thereto; and

6 (3) deliver or sell processed medical marijuana to one or more
7 licensed retail dispensaries.

8 (b) When storing or selling medical marijuana, a licensed distributor
9 shall ensure that such medical marijuana meets the packaging and labeling
10 requirements established by rules and regulations adopted by the secretary
11 of revenue.

12 (c) When establishing the number of distributor licenses that will be
13 permitted at any one time, the director shall consider the population of this
14 state and the number of patients seeking to use medical marijuana.

15 New Sec. 31. (a) Any entity that seeks to dispense at retail medical
16 marijuana shall submit an application for a retail dispensary license in such
17 form and manner as prescribed by the director of alcoholic beverage
18 control. A separate license application shall be submitted for each location
19 to be operated by the licensee.

20 (b) The director shall issue a license to an applicant if:

21 (1) The criminal history record check conducted pursuant to section
22 43, and amendments thereto, with respect to the applicant demonstrates the
23 following:

24 (A) Subject to subparagraph (B), that the individual subject to the
25 criminal history record check requirement has not been convicted of or
26 pleaded guilty to any of the disqualifying offenses as specified in rules and
27 regulations adopted by the secretary of revenue; or

28 (B) that the disqualifying offense such individual was convicted of or
29 pleaded guilty to is one of the offenses specified in rules and regulations as
30 one that will not disqualify the applicant if the applicant was convicted of
31 or pleaded guilty to the offense more than five years prior to the date the
32 application for licensure is submitted;

33 (2) the applicant demonstrates that it does not have an ownership or
34 investment interest in or compensation arrangement with a laboratory
35 licensed under section 20, and amendments thereto, or an applicant for
36 such license;

37 (3) the applicant demonstrates that it does not share any corporate
38 officers or employees with a laboratory licensed under section 20, and
39 amendments thereto, or an applicant for such license;

40 (4) the applicant demonstrates that it will not violate the provisions of
41 section 42, and amendments thereto;

42 (5) the applicant has submitted a tax clearance certificate issued by
43 the department of revenue; and

1 (6) the applicant meets all other licensure eligibility conditions
2 established in rules and regulations adopted by the secretary and has paid
3 all required fees.

4 (c) The director shall issue not less than 15% of retail dispensary
5 licenses to entities that are owned and controlled by United States citizens
6 who are residents of this state and are members of one of the following
7 economically disadvantaged groups: Blacks or African Americans,
8 American Indians, Hispanics or Latinos and Asians. If no application or an
9 insufficient number of applications are submitted by such entities that meet
10 the conditions set forth in subsection (b), licenses shall be issued in
11 accordance with subsections (a) and (b).

12 (d) Each associated, key and support employee of a licensed retail
13 dispensary shall submit an application for an employee license for such
14 employee in such form and manner as prescribed by the director. A
15 separate license application shall be submitted for each employee. The
16 director shall issue a license to an applicant if all of the following
17 conditions are met:

18 (1) The criminal history record check conducted pursuant to section
19 43, and amendments thereto, with respect to the applicant demonstrates the
20 following:

21 (A) Subject to subparagraph (B), that the individual subject to the
22 criminal history record check requirement has not been convicted of or
23 pleaded guilty to any of the disqualifying offenses as specified in rules and
24 regulations adopted by the secretary of revenue; or

25 (B) that the disqualifying offense such individual was convicted of or
26 pleaded guilty to is one of the offenses specified in rules and regulations as
27 one that will not disqualify the applicant if the applicant was convicted of
28 or pleaded guilty to the offense more than five years prior to the date the
29 application for licensure is submitted; and

30 (2) the applicant meets all other licensure eligibility conditions
31 established in rules and regulations adopted by the secretary and has paid
32 all required fees.

33 (e) A license shall be valid for a period of two years from the date
34 such license is issued and may be renewed by submitting a license renewal
35 application and paying the required fee.

36 (f) When establishing the number of retail dispensary licenses that
37 will be permitted at any one time, the director shall consider all of the
38 following:

39 (1) The population of this state;

40 (2) the number of patients seeking to use medical marijuana; and

41 (3) the geographic distribution of retail dispensaries in an effort to
42 ensure patient access to medical marijuana.

43 New Sec. 32. (a) A retail dispensary licensee may:

- 1 (1) Obtain medical marijuana from one or more licensed processors
- 2 or distributors; and
- 3 (2) dispense or sell medical marijuana in accordance with subsection
- 4 (b).
- 5 (b) When dispensing or selling medical marijuana, a retail dispensary
- 6 shall:
- 7 (1) Dispense or sell medical marijuana only to a person who shows a
- 8 current, valid identification card and only in accordance with a written
- 9 recommendation issued by a physician;
- 10 (2) report to the prescription monitoring program database the
- 11 information required by K.S.A. 65-1683, and amendments thereto;
- 12 (3) label the package containing medical marijuana with the
- 13 following information:
- 14 (A) The name and address of the licensed processor that produced the
- 15 product and the retail dispensary;
- 16 (B) the name of the patient and caregiver, if any;
- 17 (C) the name of the physician who recommended treatment with
- 18 medical marijuana;
- 19 (D) the directions for use, if any, as recommended by the physician;
- 20 (E) a health warning as specified in rules and regulations adopted by
- 21 the secretary of health and environment;
- 22 (F) the date on which the medical marijuana was dispensed; and
- 23 (G) the quantity, strength, kind or form of medical marijuana
- 24 contained in the package.
- 25 (c) A retail dispensary shall employ only those individuals who hold a
- 26 current, valid employee license issued pursuant to section 31, and
- 27 amendments thereto, and who have completed the training requirements
- 28 established by rules and regulations adopted by the secretary of revenue.
- 29 (d) A retail dispensary shall not make public any information it
- 30 collects that identifies or would tend to identify any specific patient.
- 31 New Sec. 33. (a) Only the following forms of medical marijuana may
- 32 be dispensed under the Kansas medical marijuana regulation act:
- 33 (1) Oils;
- 34 (2) tinctures;
- 35 (3) plant material;
- 36 (4) edibles;
- 37 (5) patches; or
- 38 (6) any other form approved by the secretary of revenue under section
- 39 34, and amendments thereto.
- 40 (b) The smoking, combustion or vaporization of medical marijuana is
- 41 prohibited.
- 42 (c) Any form or method of using medical marijuana that is considered
- 43 attractive to children is prohibited.

1 (d) Plant material shall have a tetrahydrocannabinol content of not
2 more than 35%.

3 (e) Extracts shall have a tetrahydrocannabinol content of not more
4 than 70%.

5 (f) No form of medical marijuana shall be dispensed from a vending
6 machine or through electronic commerce.

7 New Sec. 34. (a) Any person may submit a petition to the director of
8 alcoholic beverage control requesting that a form or method of using
9 medical marijuana be approved for the purposes of section 33, and
10 amendments thereto. The petition shall be submitted in such form and
11 manner as prescribed by the director.

12 (b) Upon receipt of a petition, the director shall review such petition
13 to determine whether to recommend approval of the form or method of
14 using medical marijuana described in the petition. The director may
15 consolidate the review of petitions for the same or similar forms or
16 methods. The director shall consult with the medical marijuana advisory
17 committee and review any relevant scientific evidence when reviewing a
18 petition. The director shall recommend to the secretary of revenue whether
19 to approve or deny the proposed form or method of using medical
20 marijuana. The secretary shall approve or deny such proposed form or
21 method. The secretary's decision is final.

22 (c) The secretary shall not approve any petition that seeks approval of
23 a form or method of using medical marijuana that involves smoking,
24 combustion or vaporization.

25 New Sec. 35. (a) The fees for a processor license shall be set by rules
26 and regulations adopted by the secretary of revenue in an amount not to
27 exceed:

28 (1) \$10,000 for a processor license application;

29 (2) \$90,000 for a processor license; and

30 (3) \$100,000 for a renewal of a processor license.

31 (b) The fees for a distributor license shall be set by rules and
32 regulations adopted by the secretary of revenue in an amount not to
33 exceed:

34 (1) \$10,000 for a distributor license application;

35 (2) \$90,000 for a distributor license; and

36 (3) \$100,000 for a renewal of a distributor license.

37 (c) The fees for a retail dispensary license shall be set by rules and
38 regulations adopted by the secretary of revenue in an amount not to
39 exceed:

40 (1) \$5,000 for a retail dispensary license application;

41 (2) \$70,000 for a retail dispensary license and any renewal thereof;

42 (3) \$500 for each associated employee license application;

43 (4) \$250 for each key employee license application; and

1 (5) \$100 for each support employee license application.

2 New Sec. 36. The director of alcoholic beverage control may refuse
3 to issue or renew a license, or may revoke or suspend a license for any of
4 the following reasons:

5 (a) The applicant has failed to comply with any provision of the
6 Kansas medical marijuana regulation act or any rules and regulations
7 adopted thereunder;

8 (b) the applicant has falsified or misrepresented any information
9 submitted to the director in order to obtain a license;

10 (c) the applicant has failed to adhere to any acknowledgment,
11 verification or other representation made to the director when applying for
12 a license; or

13 (d) the applicant has failed to submit or disclose information
14 requested by the director.

15 New Sec. 37. (a) In addition to or in lieu of any other civil or criminal
16 penalty as provided by law, the director of alcoholic beverage control may
17 impose a civil penalty or suspend or revoke a license upon a finding that
18 the licensee committed a violation as provided in this section.

19 (b) (1) Upon a finding that a licensee has submitted fraudulent
20 information or otherwise falsified or misrepresented information required
21 to be submitted by such licensee, the director may impose a civil fine not
22 to exceed \$5,000 for a first offense and may suspend or revoke such
23 licensee's license for a second or subsequent offense.

24 (2) Upon a finding that a licensee has sold, transferred or otherwise
25 distributed medical marijuana in violation of this act, the director may
26 impose a civil fine not to exceed \$5,000 for a first offense and may
27 suspend or revoke such licensee's license for a second or subsequent
28 offense.

29 (c) If the director suspends, revokes or refuses to renew any license
30 issued pursuant to this act and determines that there is clear and
31 convincing evidence of a danger of immediate and serious harm to any
32 person, the director may place under seal all medical marijuana owned by
33 or in the possession, custody or control of the affected license holder.
34 Except as provided in this section, the director shall not dispose of the
35 sealed medical marijuana until a final order is issued authorizing such
36 disposition. During the pendency of an appeal from any order by the
37 director, a court may order the director to sell medical marijuana that is
38 perishable, and the proceeds of any such sale shall be deposited with the
39 court.

40 New Sec. 38. (a) There is hereby established the medical marijuana
41 business entity regulation fund in the state treasury. The director of
42 alcoholic beverage control shall administer the medical marijuana business
43 entity regulation fund and shall remit all moneys collected from the

1 payment of all fees and fines imposed by the director pursuant to the
2 Kansas medical marijuana regulation act and any other moneys received
3 by or on behalf of the director pursuant to such act to the state treasurer in
4 accordance with the provisions of K.S.A. 75-4215, and amendments
5 thereto. Upon receipt of each such remittance, the state treasurer shall
6 deposit the entire amount in the state treasury to the credit of the medical
7 marijuana business entity regulation fund. Moneys credited to the medical
8 marijuana business entity regulation fund shall only be expended or
9 transferred as provided in this section. Expenditures from such fund shall
10 be made in accordance with appropriation acts upon warrants of the
11 director of accounts and reports issued pursuant to vouchers approved by
12 the director or the director's designee.

13 (b) Moneys in the medical marijuana business entity regulation fund
14 shall be used for the payment or reimbursement of costs related to the
15 regulation and enforcement of the possession, processing and sale of
16 medical marijuana by the division of alcoholic beverage control.

17 New Sec. 39. (a) On or before July 1, 2021, the secretary of revenue
18 shall adopt rules and regulations to administer the Kansas medical
19 marijuana regulation program and implement and enforce the provisions of
20 the Kansas medical marijuana regulation act. Such rules and regulations
21 shall:

22 (1) Establish application procedures and fees for licenses issued
23 under sections 28 and 31, and amendments thereto;

24 (2) specify the following:

25 (A) The conditions for eligibility for licensure;

26 (B) subject to paragraph (C), the criminal offenses for which an
27 applicant will be disqualified from licensure; and

28 (C) the criminal offenses that will not disqualify an applicant from
29 licensure if the applicant was convicted of or pleaded guilty to the offense
30 more than five years prior to the date the application for licensure is filed;

31 (3) establish the number of licenses that will be permitted at any one
32 time in accordance with sections 29, 30 and 31, and amendments thereto;

33 (4) establish a license renewal schedule, renewal procedures and
34 renewal fees; and

35 (5) establish training requirements for employees of retail
36 dispensaries.

37 (b) The director shall propose such rules and regulations as necessary
38 to carry out the intent and purposes of this act. After the hearing on a
39 proposed rule and regulation has been held as required by law, the director
40 shall submit the proposed rule and regulation to the secretary of revenue
41 who, if the secretary approves it, shall adopt the rule and regulation.

42 (c) When adopting rules and regulations under this section, the
43 secretary shall consider standards and procedures that have been found to

1 be best practices relative to the use and regulation of medical marijuana.

2 New Sec. 40. (a) The director of alcoholic beverage control shall
3 establish and maintain an electronic database to monitor medical
4 marijuana from its seed source through its cultivation, testing, processing,
5 distribution and dispensing. The director may contract with a separate
6 entity to establish and maintain all or any portion of the electronic
7 database on behalf of the division of alcoholic beverage control.

8 (b) The electronic database shall allow for information regarding
9 medical marijuana to be updated instantaneously. Any licensed cultivator,
10 laboratory, processor, distributor or retail dispensary shall submit such
11 information to the director as the director determines is necessary for
12 maintaining the electronic database.

13 (c) The director, any employee of the division, any entity under
14 contract with the director and any employee or agent thereof shall not
15 make public any information reported to or collected by the director under
16 this section that identifies or would tend to identify any specific patient.
17 Such information shall be kept confidential to protect the privacy of the
18 patient. The provisions of this subsection shall expire on July 1, 2025,
19 unless the legislature reviews and reenacts such provisions in accordance
20 with K.S.A. 45-229, and amendments thereto, prior to July 1, 2025.

21 New Sec. 41. (a) The director of alcoholic beverage control may, in
22 cooperation with the state treasurer, establish a closed-loop payment
23 processing system whereby the state treasurer creates accounts to be used
24 only by registered patients and caregivers at licensed retail dispensaries
25 and all licensed cultivators, laboratories, processors and distributors. The
26 system may include record-keeping and accounting functions that identify
27 all parties in transactions involving the purchase and sale of medical
28 marijuana. If established, such system shall be designed to prevent:

29 (1) Revenue from the sale of marijuana going to criminal enterprises,
30 gangs and cartels;

31 (2) the diversion of marijuana from a state where it is legal in some
32 form under that state's law to another state;

33 (3) the distribution of marijuana to minors; and

34 (4) the use of state-authorized marijuana activity as a cover or pretext
35 for the trafficking of other illegal drugs or for other illegal activity.

36 (b) The information recorded by the system shall be fully accessible
37 to the department of health and environment, the department of
38 agriculture, the director and all state and federal law enforcement agencies,
39 including the United States department of the treasury's financial crimes
40 enforcement network.

41 New Sec. 42. (a) Except as provided in subsections (b) and (c), no
42 licensed cultivator, laboratory, processor, distributor or retail dispensary
43 shall be located within 1,000 feet of the boundaries of a parcel of real

1 estate having situated on it a school, religious organization, public library
2 or public park. If the relocation of a licensed cultivator, laboratory,
3 processor, distributor or retail dispensary results in such licensee being
4 located within 1,000 feet of the boundaries of a parcel of real estate having
5 situated on it a school, religious organization, public library or public park,
6 the secretary of agriculture or the director shall revoke the license such
7 agency previously issued to such cultivator, laboratory, processor,
8 distributor or retail dispensary.

9 (b) The secretary or the director may, in such officer's discretion, not
10 revoke the license of a cultivator, laboratory, processor, distributor or retail
11 dispensary if such licensee existed at a location prior to the establishment
12 of a school, religious organization, public library or public park within
13 1,000 feet of such licensee.

14 (c) This section shall not apply to research related to marijuana
15 conducted at a postsecondary educational institution, academic medical
16 center or private research and development organization as part of a
17 research protocol approved by an institutional review board or equivalent
18 entity.

19 (d) As used in this section:

20 (1) "Public library" means any library established pursuant to article
21 12 of chapter 12 of the Kansas Statutes Annotated, and amendments
22 thereto, and any other library that serves the general public and is funded
23 in whole, or in part, from moneys derived from tax levies;

24 (2) "public park" means any park or other outdoor recreational area or
25 facility, including, but not limited to, parks, open spaces, trails, swimming
26 pools, playgrounds and playing courts and fields, established by the state,
27 or any political subdivision thereof;

28 (3) "religious organization" means any organization, church, body of
29 communicants or group, gathered in common membership for mutual
30 support and edification in piety, worship and religious observances, or a
31 society of individuals united for religious purposes at a definite place and
32 such religious organization maintains an established place of worship
33 within this state and has a regular schedule of services or meetings at least
34 on a weekly basis and has been determined to be organized and created as
35 a bona fide religious organization; and

36 (4) "school" means any public or private educational institution,
37 including, but not limited to, any college, university, community college,
38 technical college, high school, middle school, elementary school, trade
39 school, vocational school or other professional school providing training
40 or education.

41 New Sec. 43. Each applicant for a cultivator license, laboratory
42 license, processor license, distributor license or retail dispensary license
43 shall require any owner, director, officer and any employee or agent of

1 such applicant to be fingerprinted and to submit to a state and national
2 criminal history record check. The secretary of agriculture and the director
3 of alcoholic beverage control are authorized to submit the fingerprints to
4 the Kansas bureau of investigation and the federal bureau of investigation
5 for a state and national criminal history record check. The department of
6 agriculture and the director shall use the information obtained from
7 fingerprinting and the state and national criminal history record check for
8 purposes of verifying the identification of the applicant and for making a
9 determination of the qualifications of the applicant for licensure. The
10 Kansas bureau of investigation may charge a reasonable fee to the
11 applicant for fingerprinting and conducting a criminal history record
12 check.

13 New Sec. 44. (a) A financial institution that provides financial
14 services to any licensed cultivator, laboratory, processor, distributor or
15 retail dispensary shall be exempt from any criminal law of this state an
16 element of which may be proven by substantiating that a person provides
17 financial services to a person who possesses, delivers or manufactures
18 marijuana or marijuana-derived products, including any of the offenses
19 specified in article 53 or 57 of chapter 21 of the Kansas Statutes
20 Annotated, and amendments thereto, if the cultivator, laboratory,
21 processor, distributor or retail dispensary is in compliance with the
22 provisions of this act and all applicable tax laws of this state.

23 (b) (1) Upon the request of a financial institution, the department of
24 agriculture or the director of alcoholic beverage control shall provide to
25 the financial institution the following information:

26 (A) Whether a person with whom the financial institution is seeking
27 to do business is a licensed cultivator, laboratory, processor, distributor or
28 retail dispensary;

29 (B) the name of any other business or individual affiliated with the
30 person;

31 (C) an unredacted copy of such person's application for a license, and
32 any supporting documentation, that was submitted by the person;

33 (D) if applicable, information relating to sales and volume of product
34 sold by the person;

35 (E) whether the person is in compliance with the provisions of this
36 act; and

37 (F) any past or pending violations of the Kansas medical marijuana
38 regulation act or any rules and regulations adopted thereunder committed
39 by such person, and any penalty imposed on the person for such violation.

40 (2) The secretary or the director may charge a financial institution a
41 reasonable fee to cover the administrative cost of providing information
42 requested under this section.

43 (c) Information received by a financial institution under subsection

1 (b) is confidential. Except as otherwise permitted by any other state or
2 federal law, a financial institution shall not make the information available
3 to any person other than the customer to whom the information applies and
4 any trustee, conservator, guardian, personal representative or agent of that
5 customer.

6 (d) As used in this section:

7 (1) "Financial institution" means any bank, trust company, savings
8 bank, credit union or savings and loan association or any other financial
9 institution regulated by the state of Kansas, any agency of the United
10 States or other state with an office in Kansas; and

11 (2) "financial services" means services that a financial institution is
12 authorized to provide under chapter nine or article 22 of chapter 17 of the
13 Kansas Statutes Annotated, and amendments thereto, as applicable.

14 New Sec. 45. Nothing in this act authorizes the secretary of
15 agriculture or the director of alcoholic beverage control to oversee or limit
16 research conducted at a postsecondary educational institution, academic
17 medical center or private research and development organization that is
18 related to marijuana and is approved by an agency, board, center,
19 department or institute of the United States government, including any of
20 the following:

21 (a) The agency for health care research and quality;

22 (b) the national institutes of health;

23 (c) the national academy of sciences;

24 (d) the centers for medicare and medicaid services;

25 (e) the United States department of defense;

26 (f) the centers for disease control and prevention;

27 (g) the United States department of veterans affairs;

28 (h) the drug enforcement administration;

29 (i) the food and drug administration; and

30 (j) any board recognized by the national institutes of health for the
31 purpose of evaluating the medical value of health care services.

32 New Sec. 46. The provisions of the Kansas medical marijuana
33 regulation act are hereby declared to be severable. If any part or provision
34 of the Kansas medical marijuana regulation act is held to be void, invalid
35 or unconstitutional, such part or provision shall not affect or impair any of
36 the remaining parts or provisions of the Kansas medical marijuana
37 regulation act, and any such remaining provisions shall continue in full
38 force and effect.

39 New Sec. 47. (a) It shall be unlawful to store, or otherwise leave
40 medical marijuana where it is readily accessible to a child under the age of
41 18 years. Such conduct shall be unlawful with no requirement of a
42 culpable mental state.

43 (b) Violation of this section is a class A person misdemeanor.

1 (c) This section shall not apply to any person who stores or otherwise
2 leaves medical marijuana where it is readily accessible to a child under the
3 age of 18 years if:

4 (1) Such child is a patient registered pursuant to section 8, and
5 amendments thereto; and

6 (2) such medical marijuana is not readily accessible to any child
7 under the age of 18 years other than the child described in paragraph (1).

8 (d) As used in this section:

9 (1) "Medical marijuana" means the same as defined in section 2, and
10 amendments thereto; and

11 (2) "readily accessible" means the medical marijuana is not stored in
12 a locked container, and that restricts entry to such container solely to
13 individuals who are over the age of 17, or who are registered patients
14 pursuant to section 8, and amendments thereto.

15 (e) This section shall be a part of and supplemental to the Kansas
16 criminal code.

17 New Sec. 48. (a) Subject to the provisions of K.S.A. 44-1018, and
18 amendments thereto, it shall be unlawful for any person:

19 (1) To refuse to sell or rent after the making of a bona fide offer, to
20 fail to transmit a bona fide offer or refuse to negotiate in good faith for the
21 sale or rental of, or otherwise make unavailable or deny, real property to
22 any person because such person consumes medical marijuana in
23 accordance with section 10, and amendments thereto;

24 (2) to discriminate against any person in the terms, conditions or
25 privileges of sale or rental of real property, or in the provision of services
26 or facilities in connection therewith, because such person consumes
27 medical marijuana in accordance with section 10, and amendments
28 thereto; and

29 (3) to discriminate against any person in such person's use or
30 occupancy of real property because such person associates with another
31 person who consumes medical marijuana in accordance with section 10,
32 and amendments thereto.

33 (b) (1) It shall be unlawful for any person or other entity whose
34 business includes engaging in real estate related transactions to
35 discriminate against any person in making available such a transaction, or
36 in the terms or conditions of such a transaction, because such person or
37 any person associated with such person in connection with any real estate
38 related transaction consumes medical marijuana in accordance with
39 section 10, and amendments thereto.

40 (2) Nothing in this subsection prohibits a person engaged in the
41 business of furnishing appraisals of real property to take into consideration
42 factors other than an individual's consumption of medical marijuana in
43 accordance with section 10, and amendments thereto.

1 (3) As used in this subsection, "real estate related transaction" means
2 the same as that term is defined in K.S.A. 44-1017, and amendments
3 thereto.

4 (c) It shall be unlawful to coerce, intimidate, threaten or interfere with
5 any person in the exercise or enjoyment of, or on account of such person's
6 having exercised or enjoyed, or on account of such person's having aided
7 or encouraged any other person in the exercise or enjoyment of, any right
8 granted or protected by subsection (a) or (b).

9 (d) Nothing in this section shall be construed to prohibit a person
10 from taking any action necessary to procure or retain any monetary benefit
11 provided under federal law, or any rules and regulations adopted
12 thereunder, or to obtain or maintain any license, certificate, registration or
13 other legal status issued or bestowed under federal law, or any rules and
14 regulations adopted thereunder.

15 (e) The provisions of this section shall be a part of and supplement to
16 the Kansas act against discrimination.

17 New Sec. 49. (a) A covered entity, solely on the basis that an
18 individual consumes medical marijuana in accordance with section 10, and
19 amendments thereto, shall not:

20 (1) Consider such individual ineligible to receive an anatomical gift
21 or organ transplant;

22 (2) deny medical and other services related to organ transplantation,
23 including evaluation, surgery, counseling and post-transplantation
24 treatment and services;

25 (3) refuse to refer the individual to a transplant center or a related
26 specialist for the purpose of evaluation or receipt of an organ transplant;

27 (4) refuse to place such individual on an organ transplant waiting list;
28 or

29 (5) place such individual at a lower-priority position on an organ
30 transplant waiting list than the position at which such individual would
31 have been placed if not for such individual's consumption of medical
32 marijuana.

33 (b) A covered entity may take into account an individual's
34 consumption of medical marijuana when making treatment or coverage
35 recommendations or decisions, solely to the extent that such consumption
36 has been found by a physician, following an individualized evaluation of
37 the individual, to be medically significant to the provision of the
38 anatomical gift.

39 (c) Nothing in this section shall be construed to require a covered
40 entity to make a referral or recommendation for or perform a medically
41 inappropriate organ transplant.

42 (d) As used in this section, the terms "anatomical gift," "covered
43 entity" and "organ transplant" mean the same as those terms are defined in

1 K.S.A. 65-3276, and amendments thereto.

2 New Sec. 50. (a) No order shall be issued pursuant to K.S.A. 2019
3 Supp. 38-2242, 38-2243 or 38-2244, and amendments thereto, if the sole
4 basis for the threat to the child's safety or welfare is that the child resides
5 with an individual who consumes medical marijuana in accordance with
6 section 10, and amendments thereto, or the child consumes medical
7 marijuana in accordance with section 10, and amendments thereto.

8 (b) The provisions of this section shall be a part of and supplemental
9 to the revised Kansas code for care of children.

10 New Sec. 51. Notwithstanding the provisions of K.S.A. 65-2836, and
11 amendments thereto, the board shall not revoke, suspend or limit a
12 physician's license, publicly censure a physician or place a physician's
13 license under probationary conditions upon any of the following:

14 (a) The physician has:

15 (1) Advised a patient about the possible benefits and risks of using
16 medical marijuana;

17 (2) advised the patient that using medical marijuana may mitigate the
18 patient's symptoms; or

19 (3) submitted an application on behalf of a patient or caregiver for
20 registration as a patient or caregiver under section 8, and amendments
21 thereto; or

22 (b) the physician is a registered patient or caregiver pursuant to
23 section 8, and amendments thereto, possesses or has possessed or uses or
24 has used medical marijuana in accordance with the Kansas medical
25 marijuana regulation act, section 1 et seq., and amendments thereto.

26 New Sec. 52. Notwithstanding the provisions of K.S.A. 65-28a05,
27 and amendments thereto, the board shall not revoke, suspend or limit a
28 physician assistant's license, publicly or privately censure a physician
29 assistant or deny an application for a license or for reinstatement of a
30 license upon any of the following:

31 (a) The physician assistant has:

32 (1) Advised a patient about the possible benefits and risks of using
33 medical marijuana; or

34 (2) advised the patient that using medical marijuana may mitigate the
35 patient's symptoms; or

36 (b) the physician assistant is a registered patient or caregiver pursuant
37 to section 8, and amendments thereto, possesses or has possessed or uses
38 or has used medical marijuana in accordance with the Kansas medical
39 marijuana regulation act, section 1 et seq., and amendments thereto.

40 New Sec. 53. (a) Notwithstanding any other provision of law, any
41 person, board, commission or similar body that determines the
42 qualifications of individuals for licensure, certification or registration shall
43 not disqualify an individual from licensure, certification or registration

1 solely because such individual consumes medical marijuana in
2 accordance with section 10, and amendments thereto.

3 (b) The provisions of this section shall not apply to the:

4 (1) Kansas commission on peace officers' standards and training;

5 (2) Kansas highway patrol;

6 (3) office of the attorney general;

7 (4) department of health and environment;

8 (5) department of agriculture; or

9 (6) division of alcoholic beverage control.

10 Sec. 54. K.S.A. 2019 Supp. 21-5703 is hereby amended to read as
11 follows: 21-5703. (a) It shall be unlawful for any person to manufacture
12 any controlled substance or controlled substance analog.

13 (b) Violation or attempted violation of subsection (a) is a:

14 (1) Drug severity level 2 felony, except as provided in subsections (b)
15 (2) and (b)(3);

16 (2) drug severity level 1 felony if:

17 (A) The controlled substance is not methamphetamine, as defined by
18 ~~subsection (d)(3) or (f)(1) of~~ K.S.A. 65-4107(d)(3) or (f)(1), and
19 amendments thereto, or an analog thereof; and

20 (B) the offender has a prior conviction for unlawful manufacturing of
21 a controlled substance under this section, K.S.A. 65-4159, prior to its
22 repeal, K.S.A. 2010 Supp. 21-36a03, prior to its transfer, or a substantially
23 similar offense from another jurisdiction and the substance was not
24 methamphetamine, as defined by ~~subsection (d)(3) or (f)(1) of~~ K.S.A. 65-
25 4107(d)(3) or (f)(1), and amendments thereto, or an analog thereof, in any
26 such prior conviction; and

27 (3) drug severity level 1 felony if the controlled substance is
28 methamphetamine, as defined by ~~subsection (d)(3) or (f)(1) of~~ K.S.A. 65-
29 4107(d)(3) or (f)(1), and amendments thereto, or an analog thereof.

30 (c) The provisions of ~~subsection (d) of~~ K.S.A. 2019 Supp. 21-
31 5301(d), and amendments thereto, shall not apply to a violation of
32 attempting to unlawfully manufacture any controlled substance or
33 controlled substance analog pursuant to this section.

34 (d) For persons arrested and charged under this section, bail shall be
35 at least \$50,000 cash or surety, and such person shall not be released upon
36 the person's own recognizance pursuant to K.S.A. 22-2802, and
37 amendments thereto, unless the court determines, on the record, that the
38 defendant is not likely to re-offend, the court imposes pretrial supervision,
39 or the defendant agrees to participate in a licensed or certified drug
40 treatment program.

41 (e) The sentence of a person who violates this section shall not be
42 subject to statutory provisions for suspended sentence, community service
43 work or probation.

1 (f) The sentence of a person who violates this section, K.S.A. 65-
2 4159, prior to its repeal or K.S.A. 2010 Supp. 21-36a03, prior to its
3 transfer, shall not be reduced because these sections prohibit conduct
4 identical to that prohibited by K.S.A. 65-4161 or 65-4163, prior to their
5 repeal, K.S.A. 2010 Supp. 21-36a05, prior to its transfer, or K.S.A. 2019
6 Supp. 21-5705, and amendments thereto.

7 (g) *The provisions of this section shall not apply to a cultivator*
8 *licensed by the department of agriculture pursuant to section 20, and*
9 *amendments thereto, or a processor licensed by the director of alcoholic*
10 *beverage control pursuant to section 28, and amendments thereto, that is*
11 *producing medical marijuana, as defined in section 2, and amendments*
12 *thereto, when used for acts authorized by the Kansas medical marijuana*
13 *regulation act, section 1 et seq., and amendments thereto.*

14 Sec. 55. K.S.A. 2019 Supp. 21-5705 is hereby amended to read as
15 follows: 21-5705. (a) It shall be unlawful for any person to distribute or
16 possess with the intent to distribute any of the following controlled
17 substances or controlled substance analogs thereof:

18 (1) Opiates, opium or narcotic drugs, or any stimulant designated in
19 ~~subsection (d)(1), (d)(3) or (f)(1) of K.S.A. 65-4107(d)(1), (d)(3) or (f)(1),~~
20 and amendments thereto;

21 (2) any depressant designated in ~~subsection (e) of K.S.A. 65-4105(e),~~
22 ~~subsection (e) of K.S.A. 65-4107(e), subsection (b) or (c) of K.S.A. 65-~~
23 ~~4109(b) or (c) or subsection (b) of K.S.A. 65-4111(b),~~ and amendments
24 thereto;

25 (3) any stimulant designated in ~~subsection (f) of K.S.A. 65-4105(f),~~
26 ~~subsection (d)(2), (d)(4), (d)(5) or (f)(2) of K.S.A. 65-4107(d)(2), (d)(4),~~
27 ~~(d)(5) or (f)(2) or subsection (e) of K.S.A. 65-4109(e),~~ and amendments
28 thereto;

29 (4) any hallucinogenic drug designated in ~~subsection (d) of K.S.A.~~
30 ~~65-4105(d), subsection (g) of K.S.A. 65-4107(g) or subsection (g) of~~
31 ~~K.S.A. 65-4109(g),~~ and amendments thereto;

32 (5) any substance designated in ~~subsection (g) of K.S.A. 65-4105(g)~~
33 ~~and subsection (e), (d), (e), (f) or (g) of K.S.A. 65-4111(c), (d), (e), (f) or~~
34 ~~(g),~~ and amendments thereto;

35 (6) any anabolic steroids as defined in ~~subsection (f) of K.S.A. 65-~~
36 ~~4109(f),~~ and amendments thereto; or

37 (7) any substance designated in ~~subsection (h) of K.S.A. 65-4105(h),~~
38 and amendments thereto.

39 (b) It shall be unlawful for any person to distribute or possess with
40 the intent to distribute a controlled substance or a controlled substance
41 analog designated in K.S.A. 65-4113, and amendments thereto.

42 (c) It shall be unlawful for any person to cultivate any controlled
43 substance or controlled substance analog listed in subsection (a).

1 (d) (1) Except as provided further, violation of subsection (a) is a:

2 (A) Drug severity level 4 felony if the quantity of the material was
3 less than 3.5 grams;

4 (B) drug severity level 3 felony if the quantity of the material was at
5 least 3.5 grams but less than 100 grams;

6 (C) drug severity level 2 felony if the quantity of the material was at
7 least 100 grams but less than 1 kilogram; and

8 (D) drug severity level 1 felony if the quantity of the material was 1
9 kilogram or more.

10 (2) Violation of subsection (a) with respect to material containing any
11 quantity of marijuana, or an analog thereof, is a:

12 (A) Drug severity level 4 felony if the quantity of the material was
13 less than 25 grams;

14 (B) drug severity level 3 felony if the quantity of the material was at
15 least 25 grams but less than 450 grams;

16 (C) drug severity level 2 felony if the quantity of the material was at
17 least 450 grams but less than 30 kilograms; and

18 (D) drug severity level 1 felony if the quantity of the material was 30
19 kilograms or more.

20 (3) Violation of subsection (a) with respect to material containing any
21 quantity of heroin, as defined by ~~subsection (e)(1) of K.S.A. 65-4105(c)~~
22 *(1)*, and amendments thereto, or methamphetamine, as defined by
23 ~~subsection (d)(3) or (f)(1) of K.S.A. 65-4107(d)(3) or (f)(1)~~, and
24 amendments thereto, or an analog thereof, is a:

25 (A) Drug severity level 4 felony if the quantity of the material was
26 less than 1 gram;

27 (B) drug severity level 3 felony if the quantity of the material was at
28 least 1 gram but less than 3.5 grams;

29 (C) drug severity level 2 felony if the quantity of the material was at
30 least 3.5 grams but less than 100 grams; and

31 (D) drug severity level 1 felony if the quantity of the material was
32 100 grams or more.

33 (4) Violation of subsection (a) with respect to material containing any
34 quantity of a controlled substance designated in K.S.A. 65-4105, 65-4107,
35 65-4109 or 65-4111, and amendments thereto, or an analog thereof,
36 distributed by dosage unit, is a:

37 (A) Drug severity level 4 felony if the number of dosage units was
38 fewer than 10;

39 (B) drug severity level 3 felony if the number of dosage units was at
40 least 10 but less than 100;

41 (C) drug severity level 2 felony if the number of dosage units was at
42 least 100 but less than 1,000; and

43 (D) drug severity level 1 felony if the number of dosage units was

1 1,000 or more.

2 (5) For any violation of subsection (a), the severity level of the
3 offense shall be increased one level if the controlled substance or
4 controlled substance analog was distributed or possessed with the intent to
5 distribute on or within 1,000 feet of any school property.

6 (6) Violation of subsection (b) is a:

7 (A) Class A person misdemeanor, except as provided in ~~subsection~~
8 ~~(d)(6)(B)~~ *subparagraph (B)*; and

9 (B) nondrug severity level 7, person felony if the substance was
10 distributed to or possessed with the intent to distribute to a minor.

11 (7) Violation of subsection (c) is a:

12 (A) Drug severity level 3 felony if the number of plants cultivated
13 was more than 4 but fewer than 50;

14 (B) drug severity level 2 felony if the number of plants cultivated was
15 at least 50 but fewer than 100; and

16 (C) drug severity level 1 felony if the number of plants cultivated was
17 100 or more.

18 (e) In any prosecution under this section, there shall be a rebuttable
19 presumption of an intent to distribute if any person possesses the following
20 quantities of controlled substances or analogs thereof:

21 (1) 450 grams or more of marijuana;

22 (2) 3.5 grams or more of heroin or methamphetamine;

23 (3) 100 dosage units or more containing a controlled substance; or

24 (4) 100 grams or more of any other controlled substance.

25 (f) It shall not be a defense to charges arising under this section that
26 the defendant:

27 (1) Was acting in an agency relationship on behalf of any other party
28 in a transaction involving a controlled substance or controlled substance
29 analog;

30 (2) did not know the quantity of the controlled substance or
31 controlled substance analog; or

32 (3) did not know the specific controlled substance or controlled
33 substance analog contained in the material that was distributed or
34 possessed with the intent to distribute.

35 (g) *The provisions of subsections (a)(4) and (a)(5) shall not apply to:*

36 (1) *Any cultivator licensed by the department of agriculture pursuant*
37 *to section 20, and amendments thereto, or any employee or agent thereof,*
38 *that is growing medical marijuana for the purpose of sale to a licensed*
39 *processor as authorized by section 21, and amendments thereto;*

40 (2) *any processor licensed by the director of alcoholic beverage*
41 *control pursuant to section 28, and amendments thereto, or any employee*
42 *or agent thereof, that is processing medical marijuana for the purpose of*
43 *sale or distribution to a licensed processor, distributor or retail dispensary*

1 *as authorized by section 29, and amendments thereto;*

2 (3) *any distributor licensed by the director of alcoholic beverage*
 3 *control pursuant to section 28, and amendments thereto, or any employee*
 4 *or agent thereof, that is storing or distributing medical marijuana for the*
 5 *purpose of wholesale or distribution to a licensed retail dispensary as*
 6 *authorized by section 30, and amendments thereto; or*

7 (4) *any retail dispensary licensed by the director of alcoholic*
 8 *beverage control pursuant to section 31, and amendments thereto, or any*
 9 *employee or agent thereof, that is engaging in the sale of medical*
 10 *marijuana in a manner authorized by section 32, and amendments thereto.*

11 (h) As used in this section:

12 (1) "Material" means the total amount of any substance, including a
 13 compound or a mixture, ~~which~~ *that* contains any quantity of a controlled
 14 substance or controlled substance analog.

15 (2) "Dosage unit" means a controlled substance or controlled
 16 substance analog distributed or possessed with the intent to distribute as a
 17 discrete unit, including, but not limited to, one pill, one capsule or one
 18 microdot, and not distributed by weight.

19 (A) For steroids, or controlled substances in liquid solution legally
 20 manufactured for prescription use, or an analog thereof, "dosage unit"
 21 means the smallest medically approved dosage unit, as determined by the
 22 label, materials provided by the manufacturer, a prescribing authority,
 23 licensed health care professional or other qualified health authority.

24 (B) For illegally manufactured controlled substances in liquid
 25 solution, or controlled substances in liquid products not intended for
 26 ingestion by human beings, or an analog thereof, "dosage unit" means 10
 27 milligrams, including the liquid carrier medium, except as provided in
 28 ~~subsection (g)(2)(C)~~ *subparagraph (C)*.

29 (C) For lysergic acid diethylamide (LSD) in liquid form, or an analog
 30 thereof, a dosage unit is defined as 0.4 milligrams, including the liquid
 31 medium.

32 (3) *"Medical marijuana" means the same as defined in section 2, and*
 33 *amendments thereto.*

34 Sec. 56. K.S.A. 2019 Supp. 21-5706 is hereby amended to read as
 35 follows: 21-5706. (a) It shall be unlawful for any person to possess any
 36 opiates, opium or narcotic drugs, or any stimulant designated in K.S.A. 65-
 37 4107(d)(1), (d)(3) or (f)(1), and amendments thereto, or a controlled
 38 substance analog thereof.

39 (b) It shall be unlawful for any person to possess any of the following
 40 controlled substances or controlled substance analogs thereof:

41 (1) Any depressant designated in K.S.A. 65-4105(e), 65-4107(e), 65-
 42 4109(b) or (c) or 65-4111(b), and amendments thereto;

43 (2) any stimulant designated in K.S.A. 65-4105(f), 65-4107(d)(2), (d)

- 1 (4), (d)(5) or (f)(2) or 65-4109(e), and amendments thereto;
- 2 (3) any hallucinogenic drug designated in K.S.A. 65-4105(d), 65-
- 3 4107(g) or 65-4109(g), and amendments thereto;
- 4 (4) any substance designated in K.S.A. 65-4105(g) and 65-4111(c),
- 5 (d), (e), (f) or (g), and amendments thereto;
- 6 (5) any anabolic steroids as defined in K.S.A. 65-4109(f), and
- 7 amendments thereto;
- 8 (6) any substance designated in K.S.A. 65-4113, and amendments
- 9 thereto; or
- 10 (7) any substance designated in K.S.A. 65-4105(h), and amendments
- 11 thereto.
- 12 (c) (1) Violation of subsection (a) is a drug severity level 5 felony.
- 13 (2) Except as provided in subsection (c)(3):
- 14 (A) Violation of subsection (b) is a class A nonperson misdemeanor,
- 15 except as provided in subparagraph (B); and
- 16 (B) violation of subsection (b)(1) through (b)(5) or (b)(7) is a drug
- 17 severity level 5 felony if that person has a prior conviction under such
- 18 subsection, under K.S.A. 65-4162, prior to its repeal, under a substantially
- 19 similar offense from another jurisdiction, or under any city ordinance or
- 20 county resolution for a substantially similar offense if the substance
- 21 involved was 3, 4-methylenedioxymethamphetamine (MDMA), marijuana
- 22 as designated in K.S.A. 65-4105(d), and amendments thereto, or any
- 23 substance designated in K.S.A. 65-4105(h), and amendments thereto, or an
- 24 analog thereof.
- 25 (3) If the substance involved is marijuana, as designated in K.S.A.
- 26 65-4105(d), and amendments thereto, or tetrahydrocannabinols, as
- 27 designated in K.S.A. 65-4105(h), and amendments thereto, violation of
- 28 subsection (b) is a:
 - 29 (A) Class B nonperson misdemeanor, except as provided in
 - 30 subparagraphs (B) ~~and~~, (C) *and* (D);
 - 31 (B) class A nonperson misdemeanor if that person has a prior
 - 32 conviction under such subsection, under K.S.A. 65-4162, prior to its
 - 33 repeal, under a substantially similar offense from another jurisdiction, or
 - 34 under any city ordinance or county resolution for a substantially similar
 - 35 offense; ~~and~~
 - 36 (C) drug severity level 5 felony if that person has two or more prior
 - 37 convictions under such subsection, under K.S.A. 65-4162, prior to its
 - 38 repeal, under a substantially similar offense from another jurisdiction, or
 - 39 under any city ordinance or county resolution for a substantially similar
 - 40 offense; *and*
 - 41 (D) *nonperson misdemeanor punishable by a fine not to exceed \$400,*
 - 42 *if that person is not a registered patient or caregiver under the Kansas*
 - 43 *medical marijuana regulation act, section 1 et seq., and amendments*

1 *thereto, is found in possession of not more than 1.5 ounces of marijuana*
2 *and provides a statement from such person's physician recommending the*
3 *use of medical marijuana to treat such person's symptoms.*

4 ~~(d) It shall be an affirmative defense to prosecution under this section~~
5 ~~arising out of a person's possession of any cannabidiol treatment~~
6 ~~preparation if the person:~~

7 ~~(1) Has a debilitating medical condition, as defined in K.S.A. 2019~~
8 ~~Supp. 65-6235, and amendments thereto, or is the parent or guardian of a~~
9 ~~minor child who has such debilitating medical condition;~~

10 ~~(2) is possessing a cannabidiol treatment preparation, as defined in~~
11 ~~K.S.A. 2019 Supp. 65-6235, and amendments thereto, that is being used to~~
12 ~~treat such debilitating medical condition; and~~

13 ~~(3) has possession of a letter, at all times while the person has~~
14 ~~possession of the cannabidiol treatment preparation, that:~~

15 ~~(A) Shall be shown to a law enforcement officer on such officer's~~
16 ~~request;~~

17 ~~(B) is dated within the preceding 15 months and signed by the~~
18 ~~physician licensed to practice medicine and surgery in Kansas who~~
19 ~~diagnosed the debilitating medical condition;~~

20 ~~(C) is on such physician's letterhead; and~~

21 ~~(D) identifies the person or the person's minor child as such~~
22 ~~physician's patient and identifies the patient's debilitating medical~~
23 ~~condition~~

24 *If the substance involved is medical marijuana, as defined in*
25 *section 2, and amendments thereto, the provisions of subsections (b) and*
26 *(c) shall not apply to any person who is registered or licensed pursuant to*
27 *the Kansas medical marijuana regulation act, section 1 et seq., and*
28 *amendments thereto, whose possession is authorized by such act.*

29 ~~(e) It shall not be a defense to charges arising under this section that~~
30 ~~the defendant was acting in an agency relationship on behalf of any other~~
31 ~~party in a transaction involving a controlled substance or controlled~~
32 ~~substance analog.~~

33 ~~Sec. 57. K.S.A. 2019 Supp. 21-5707 is hereby amended to read as~~
34 ~~follows: 21-5707. (a) It shall be unlawful for any person to knowingly or~~
35 ~~intentionally use any communication facility:~~

36 ~~(1) In committing, causing, or facilitating the commission of any~~
37 ~~felony under K.S.A. 2019 Supp. 21-5703, 21-5705 or 21-5706, and~~
38 ~~amendments thereto; or~~

39 ~~(2) in any attempt to commit, any conspiracy to commit, or any~~
40 ~~criminal solicitation of any felony under K.S.A. 2019 Supp. 21-5703, 21-~~
41 ~~5705 or 21-5706, and amendments thereto. Each separate use of a~~
42 ~~communication facility may be charged as a separate offense under this~~
43 ~~subsection.~~

44 ~~(b) Violation of subsection (a) is a nondrug severity level 8,~~

1 nonperson felony.

2 (c) *The provisions of this section shall not apply to any person using*
3 *communication facilities for those activities authorized by the Kansas*
4 *medical marijuana regulation act, section 1 et seq., and amendments*
5 *thereto.*

6 (d) As used in this section, "communication facility" means any and
7 all public and private instrumentalities used or useful in the transmission
8 of writing, signs, signals, pictures or sounds of all kinds and includes
9 telephone, wire, radio, computer, computer networks, beepers, pagers and
10 all other means of communication.

11 Sec. 58. K.S.A. 2019 Supp. 21-5709 is hereby amended to read as
12 follows: 21-5709. (a) It shall be unlawful for any person to possess
13 ephedrine, pseudoephedrine, red phosphorus, lithium metal, sodium metal,
14 iodine, anhydrous ammonia, pressurized ammonia or
15 phenylpropanolamine, or their salts, isomers or salts of isomers with an
16 intent to use the product to manufacture a controlled substance.

17 (b) It shall be unlawful for any person to use or possess with intent to
18 use any drug paraphernalia to:

19 (1) Manufacture, cultivate, plant, propagate, harvest, test, analyze or
20 distribute a controlled substance; or

21 (2) store, contain, conceal, inject, ingest, inhale or otherwise
22 introduce a controlled substance into the human body.

23 (c) It shall be unlawful for any person to use or possess with intent to
24 use anhydrous ammonia or pressurized ammonia in a container not
25 approved for that chemical by the Kansas department of agriculture.

26 (d) It shall be unlawful for any person to purchase, receive or
27 otherwise acquire at retail any compound, mixture or preparation
28 containing more than 3.6 grams of pseudoephedrine base or ephedrine
29 base in any single transaction or any compound, mixture or preparation
30 containing more than nine grams of pseudoephedrine base or ephedrine
31 base within any 30-day period.

32 (e) (1) Violation of subsection (a) is a drug severity level 3 felony;

33 (2) violation of subsection (b)(1) is a:

34 (A) Drug severity level 5 felony, except as provided in subsection (e)
35 (2)(B); and

36 (B) class B nonperson misdemeanor if the drug paraphernalia was
37 used to cultivate fewer than five marijuana plants;

38 (3) violation of subsection (b)(2) is a class B nonperson
39 misdemeanor;

40 (4) violation of subsection (c) is a drug severity level 5 felony; and

41 (5) violation of subsection (d) is a class A nonperson misdemeanor.

42 (f) For persons arrested and charged under subsection (a) or (c), bail
43 shall be at least \$50,000 cash or surety, and such person shall not be

1 released upon the person's own recognizance pursuant to K.S.A. 22-2802,
2 and amendments thereto, unless the court determines, on the record, that
3 the defendant is not likely to reoffend, the court imposes pretrial
4 supervision or the defendant agrees to participate in a licensed or certified
5 drug treatment program.

6 *(g) The provisions of subsection (b) shall not apply to any person*
7 *registered or licensed pursuant to the Kansas medical marijuana*
8 *regulation act, section 1 et seq., and amendments thereto, whose*
9 *possession of such equipment or material is used solely to produce or for*
10 *the administration of medical marijuana, as defined in section 2, and*
11 *amendments thereto, in a manner authorized by the Kansas medical*
12 *marijuana regulation act, section 1 et seq., and amendments thereto.*

13 Sec. 59. K.S.A. 2019 Supp. 21-5710 is hereby amended to read as
14 follows: 21-5710. (a) It shall be unlawful for any person to advertise,
15 market, label, distribute or possess with the intent to distribute:

16 (1) Any product containing ephedrine, pseudoephedrine, red
17 phosphorus, lithium metal, sodium metal, iodine, anhydrous ammonia,
18 pressurized ammonia or phenylpropanolamine or their salts, isomers or
19 salts of isomers if the person knows or reasonably should know that the
20 purchaser will use the product to manufacture a controlled substance or
21 controlled substance analog; or

22 (2) any product containing ephedrine, pseudoephedrine or
23 phenylpropanolamine, or their salts, isomers or salts of isomers for
24 indication of stimulation, mental alertness, weight loss, appetite control,
25 energy or other indications not approved pursuant to the pertinent federal
26 over-the-counter drug final monograph or tentative final monograph or
27 approved new drug application.

28 (b) It shall be unlawful for any person to distribute, possess with the
29 intent to distribute or manufacture with intent to distribute any drug
30 paraphernalia, knowing or under circumstances where one reasonably
31 should know that it will be used to manufacture or distribute a controlled
32 substance or controlled substance analog in violation of K.S.A. 2019 Supp.
33 21-5701 through 21-5717, and amendments thereto.

34 (c) It shall be unlawful for any person to distribute, possess with
35 intent to distribute or manufacture with intent to distribute any drug
36 paraphernalia, knowing or under circumstances where one reasonably
37 should know, that it will be used as such in violation of K.S.A. 2019 Supp.
38 21-5701 through 21-5717, and amendments thereto, ~~except subsection (b)~~
39 ~~of K.S.A. 2019 Supp. 21-5706(b), and amendments thereto.~~

40 (d) It shall be unlawful for any person to distribute, possess with
41 intent to distribute or manufacture with intent to distribute any drug
42 paraphernalia, knowing, or under circumstances where one reasonably
43 should know, that it will be used as such in violation of ~~subsection (b) of~~

1 K.S.A. 2019 Supp. 21-5706(b), and amendments thereto.

2 (e) (1) Violation of subsection (a) is a drug severity level 3 felony;

3 (2) violation of subsection (b) is a:

4 (A) Drug severity level 5 felony, except as provided in subsection (e)
5 (2)(B); and

6 (B) drug severity level 4 felony if the trier of fact makes a finding that
7 the offender distributed or caused drug paraphernalia to be distributed to a
8 minor or on or within 1,000 feet of any school property;

9 (3) violation of subsection (c) is a:

10 (A) Nondrug severity level 9, nonperson felony, except as provided in
11 subsection (e)(3)(B); and

12 (B) drug severity level 5 felony if the trier of fact makes a finding that
13 the offender distributed or caused drug paraphernalia to be distributed to a
14 minor or on or within 1,000 feet of any school property; and

15 (4) violation of subsection (d) is a:

16 (A) Class A nonperson misdemeanor, except as provided in
17 subsection (e)(4)(B); and

18 (B) nondrug severity level 9, nonperson felony if the trier of fact
19 makes a finding that the offender distributed or caused drug paraphernalia
20 to be distributed to a minor or on or within 1,000 feet of any school
21 property.

22 (f) For persons arrested and charged under subsection (a), bail shall
23 be at least \$50,000 cash or surety, and such person shall not be released
24 upon the person's own recognizance pursuant to K.S.A. 22-2802, and
25 amendments thereto, unless the court determines, on the record, that the
26 defendant is not likely to re-offend, the court imposes pretrial supervision
27 or the defendant agrees to participate in a licensed or certified drug
28 treatment program.

29 (g) *The provisions of subsection (c) shall not apply to any person*
30 *licensed pursuant to the Kansas medical marijuana regulation act, section*
31 *1 et seq., and amendments thereto, whose distribution or manufacture is*
32 *used solely to distribute or produce medical marijuana, as defined in*
33 *section 2, and amendments thereto, in a manner authorized by the Kansas*
34 *medical marijuana regulation act, section 1 et seq., and amendments*
35 *thereto.*

36 (h) As used in this section, "or under circumstances where one
37 reasonably should know" that an item will be used in violation of this
38 section, shall include, but not be limited to, the following:

39 (1) Actual knowledge from prior experience or statements by
40 customers;

41 (2) inappropriate or impractical design for alleged legitimate use;

42 (3) receipt of packaging material, advertising information or other
43 manufacturer supplied information regarding the item's use as drug

1 paraphernalia; or

2 (4) receipt of a written warning from a law enforcement or
3 prosecutorial agency having jurisdiction that the item has been previously
4 determined to have been designed specifically for use as drug
5 paraphernalia.

6 Sec. 60. K.S.A. 2019 Supp. 23-3201 is hereby amended to read as
7 follows: 23-3201. (a) The court shall determine legal custody, residency
8 and parenting time of a child in accordance with the best interests of the
9 child.

10 (b) *The court shall not consider the fact that a parent or a child*
11 *consumes medical marijuana in accordance with section 10, and*
12 *amendments thereto, when determining the legal custody, residency or*
13 *parenting time of a child.*

14 Sec. 61. K.S.A. 2019 Supp. 38-2269 is hereby amended to read as
15 follows: 38-2269. (a) When the child has been adjudicated to be a child in
16 need of care, the court may terminate parental rights or appoint a
17 permanent custodian when the court finds by clear and convincing
18 evidence that the parent is unfit by reason of conduct or condition which
19 renders the parent unable to care properly for a child and the conduct or
20 condition is unlikely to change in the foreseeable future.

21 (b) In making a determination of unfitness the court shall consider,
22 but is not limited to, the following, if applicable:

23 (1) Emotional illness, mental illness, mental deficiency or physical
24 disability of the parent, of such duration or nature as to render the parent
25 unable to care for the ongoing physical, mental and emotional needs of the
26 child;

27 (2) conduct toward a child of a physically, emotionally or sexually
28 cruel or abusive nature;

29 (3) the use of intoxicating liquors or narcotic or dangerous drugs of
30 such duration or nature as to render the parent unable to care for the
31 ongoing physical, mental or emotional needs of the child, *except the use of*
32 *medical marijuana in accordance with section 10, and amendments*
33 *thereto, shall not be considered to render the parent unable to care for the*
34 *ongoing physical, mental or emotional needs of the child;*

35 (4) physical, mental or emotional abuse or neglect or sexual abuse of
36 a child;

37 (5) conviction of a felony and imprisonment;

38 (6) unexplained injury or death of another child or stepchild of the
39 parent or any child in the care of the parent at the time of injury or death;

40 (7) failure of reasonable efforts made by appropriate public or private
41 agencies to rehabilitate the family;

42 (8) lack of effort on the part of the parent to adjust the parent's
43 circumstances, conduct or conditions to meet the needs of the child; and

1 (9) whether, as a result of the actions or inactions attributable to the
2 parent and one or more of the factors listed in subsection (c) apply, the
3 child has been in the custody of the secretary and placed with neither
4 parent for 15 of the most recent 22 months beginning 60 days after the
5 date on which a child in the secretary's custody was removed from the
6 child's home.

7 (c) In addition to the foregoing, when a child is not in the physical
8 custody of a parent, the court, shall consider, but is not limited to, the
9 following:

10 (1) Failure to assure care of the child in the parental home when able
11 to do so;

12 (2) failure to maintain regular visitation, contact or communication
13 with the child or with the custodian of the child;

14 (3) failure to carry out a reasonable plan approved by the court
15 directed toward the integration of the child into a parental home; and

16 (4) failure to pay a reasonable portion of the cost of substitute
17 physical care and maintenance based on ability to pay.

18 In making the above determination, the court may disregard incidental
19 visitations, contacts, communications or contributions.

20 (d) A finding of unfitness may be made as provided in this section if
21 the court finds that the parents have abandoned the child, the custody of
22 the child was surrendered pursuant to K.S.A. 2019 Supp. 38-2282, and
23 amendments thereto, or the child was left under such circumstances that
24 the identity of the parents is unknown and cannot be ascertained, despite
25 diligent searching, and the parents have not come forward to claim the
26 child within three months after the child is found.

27 (e) If a person is convicted of a felony in which sexual intercourse
28 occurred, or if a juvenile is adjudicated a juvenile offender because of an
29 act which, if committed by an adult, would be a felony in which sexual
30 intercourse occurred, and as a result of the sexual intercourse, a child is
31 conceived, a finding of unfitness may be made.

32 (f) The existence of any one of the above factors standing alone may,
33 but does not necessarily, establish grounds for termination of parental
34 rights.

35 (g) (1) If the court makes a finding of unfitness, the court shall
36 consider whether termination of parental rights as requested in the petition
37 or motion is in the best interests of the child. In making the determination,
38 the court shall give primary consideration to the physical, mental and
39 emotional health of the child. If the physical, mental or emotional needs of
40 the child would best be served by termination of parental rights, the court
41 shall so order. A termination of parental rights under the code shall not
42 terminate the right of a child to inherit from or through a parent. Upon
43 such termination all rights of the parent to such child, including, such

1 parent's right to inherit from or through such child, shall cease.

2 (2) If the court terminates parental rights, the court may authorize
 3 adoption pursuant to K.S.A. 2019 Supp. 38-2270, and amendments
 4 thereto, appointment of a permanent custodian pursuant to K.S.A. 2019
 5 Supp. 38-2272, and amendments thereto, or continued permanency
 6 planning.

7 (3) If the court does not terminate parental rights, the court may
 8 authorize appointment of a permanent custodian pursuant to K.S.A. 2019
 9 Supp. 38-2272, and amendments thereto, or continued permanency
 10 planning.

11 (h) If a parent is convicted of an offense as provided in K.S.A. 2019
 12 Supp. 38-2271(a)(7), and amendments thereto, or is adjudicated a juvenile
 13 offender because of an act which if committed by an adult would be an
 14 offense as provided in K.S.A. 2019 Supp. 38-2271(a)(7), and amendments
 15 thereto, and if the victim was the other parent of a child, the court may
 16 disregard such convicted or adjudicated parent's opinions or wishes in
 17 regard to the placement of such child.

18 (i) A record shall be made of the proceedings.

19 (j) When adoption, proceedings to appoint a permanent custodian or
 20 continued permanency planning has been authorized, the person or agency
 21 awarded custody of the child shall within 30 days submit a written plan for
 22 permanent placement which shall include measurable objectives and time
 23 schedules.

24 Sec. 62. K.S.A. 2019 Supp. 44-501 is hereby amended to read as
 25 follows: 44-501. (a) (1) Compensation for an injury shall be disallowed if
 26 such injury to the employee results from:

27 (A) The employee's deliberate intention to cause such injury;

28 (B) the employee's willful failure to use a guard or protection against
 29 accident or injury which is required pursuant to any statute and provided
 30 for the employee;

31 (C) the employee's willful failure to use a reasonable and proper
 32 guard and protection voluntarily furnished the employee by the employer;

33 (D) the employee's reckless violation of their employer's workplace
 34 safety rules or regulations; or

35 (E) the employee's voluntary participation in fighting or horseplay
 36 with a co-employee for any reason, work related or otherwise.

37 (2) ~~Subparagraphs (B) and (C) of paragraph (1) of subsection~~
 38 ~~(a) Subsections (a)(1)(B) and (a)(1)(C)~~ shall not apply when it was
 39 reasonable under the totality of the circumstances to not use such
 40 equipment, or if the employer approved the work engaged in at the time of
 41 an accident or injury to be performed without such equipment.

42 (b) (1) (A) The employer shall not be liable under the workers
 43 compensation act where the injury, disability or death was contributed to

1 by the employee's use or consumption of alcohol or any drugs, chemicals
 2 or any other compounds or substances, including, but not limited to, any
 3 drugs or medications—~~which~~ *that* are available to the public without a
 4 prescription from a health care provider, prescription drugs or medications,
 5 any form or type of narcotic drugs, marijuana, stimulants, depressants or
 6 hallucinogens.

7 (B) (i) In the case of drugs or medications which are available to the
 8 public without a prescription from a health care provider and prescription
 9 drugs or medications, compensation shall not be denied if the employee
 10 can show that such drugs or medications were being taken or used in
 11 therapeutic doses and there have been no prior incidences of the
 12 employee's impairment on the job as the result of the use of such drugs or
 13 medications within the previous 24 months.

14 (ii) *In the case of marijuana or any other form of cannabis, including*
 15 *any cannabis derivatives, compensation shall not be denied if the*
 16 *employee is registered as a patient pursuant to section 8, and amendments*
 17 *thereto, such cannabis or cannabis derivative was used in accordance*
 18 *with the Kansas medical marijuana regulation act, section 1 et seq., and*
 19 *amendments thereto, and there has been no prior incidence of the*
 20 *employee's impairment on the job as a result of the use of such cannabis*
 21 *or cannabis derivative within the previous 24 months.*

22 (C) It shall be conclusively presumed that the employee was impaired
 23 due to alcohol or drugs if it is shown that, at the time of the injury, the
 24 employee had an alcohol concentration of .04 or more, or a GCMS
 25 confirmatory test by quantitative analysis showing a concentration at or
 26 above the levels shown on the following chart for the drugs of abuse listed:

	Confirmatory test cutoff levels (ng/ml)
30 Marijuana metabolite ¹	15
31 Cocaine metabolite ²	150
32 Opiates:	
33 Morphine	2000
34 Codeine	2000
35 6-Acetylmorphine ⁴	10 ng/ml
36 Phencyclidine	25
37 Amphetamines:	
38 Amphetamine	500
39 Methamphetamine ³	500

40 ¹ Delta-9-tetrahydrocannabinol-9-carboxylic acid.

41 ² Benzoylcegonine.

42 ³ Specimen must also contain amphetamine at a concentration greater
 43 than or equal to 200 ng/ml.

1 ⁴ Test for 6-AM when morphine concentration exceeds 2,000 ng/ml.

2 (D) If it is shown that the employee was impaired pursuant to
3 subsection (b)(1)(C) at the time of the injury, there shall be a rebuttable
4 presumption that the accident, injury, disability or death was contributed to
5 by such impairment. The employee may overcome the presumption of
6 contribution by clear and convincing evidence.

7 (E) An employee's refusal to submit to a chemical test at the request
8 of the employer shall result in the forfeiture of benefits under the workers
9 compensation act if the employer had sufficient cause to suspect the use of
10 alcohol or drugs by the claimant or if the employer's policy clearly
11 authorizes post-injury testing.

12 (2) The results of a chemical test shall be admissible evidence to
13 prove impairment if the employer establishes that the testing was done
14 under any of the following circumstances:

15 (A) As a result of an employer mandated drug testing policy, in place
16 in writing prior to the date of accident or injury, requiring any worker to
17 submit to testing for drugs or alcohol;

18 (B) during an autopsy or in the normal course of medical treatment
19 for reasons related to the health and welfare of the injured worker and not
20 at the direction of the employer;

21 (C) the worker, prior to the date and time of the accident or injury,
22 gave written consent to the employer that the worker would voluntarily
23 submit to a chemical test for drugs or alcohol following any accident or
24 injury;

25 (D) the worker voluntarily agrees to submit to a chemical test for
26 drugs or alcohol following any accident or injury; or

27 (E) as a result of federal or state law or a federal or state rule or
28 regulation having the force and effect of law requiring a post-injury testing
29 program and such required program was properly implemented at the time
30 of testing.

31 (3) Notwithstanding subsection (b)(2), the results of a chemical test
32 performed on a sample collected by an employer shall not be admissible
33 evidence to prove impairment unless the following conditions are met:

34 (A) The test sample was collected within a reasonable time following
35 the accident or injury;

36 (B) the collecting and labeling of the test sample was performed by or
37 under the supervision of a licensed health care professional;

38 (C) the test was performed by a laboratory approved by the United
39 States department of health and human services or licensed by the
40 department of health and environment, except that a blood sample may be
41 tested for alcohol content by a laboratory commonly used for that purpose
42 by state law enforcement agencies;

43 (D) the test was confirmed by gas chromatography-mass

1 spectroscopy or other comparably reliable analytical method, except that
2 no such confirmation is required for a blood alcohol sample;

3 (E) the foundation evidence must establish, beyond a reasonable
4 doubt, that the test results were from the sample taken from the employee;
5 and

6 (F) a split sample sufficient for testing shall be retained and made
7 available to the employee within 48 hours of a positive test.

8 (c) (1) Except as provided in paragraph (2), compensation shall not
9 be paid in case of coronary or coronary artery disease or cerebrovascular
10 injury unless it is shown that the exertion of the work necessary to
11 precipitate the disability was more than the employee's usual work in the
12 course of the employee's regular employment.

13 (2) For events occurring on or after July 1, 2014, in the case of a
14 firefighter as defined by K.S.A. 40-1709(b)(1), and amendments thereto,
15 or a law enforcement officer as defined by K.S.A. 74-5602, and
16 amendments thereto, coronary or coronary artery disease or
17 cerebrovascular injury shall be compensable if:

18 (A) The injury can be identified as caused by a specific event
19 occurring in the course and scope of employment;

20 (B) the coronary or cerebrovascular injury occurred within 24 hours
21 of the specific event; and

22 (C) the specific event was the prevailing factor in causing the
23 coronary or coronary artery disease or cerebrovascular injury.

24 (d) Except as provided in the workers compensation act, no
25 construction design professional who is retained to perform professional
26 services on a construction project or any employee of a construction
27 design professional who is assisting or representing the construction
28 design professional in the performance of professional services on the site
29 of the construction project, shall be liable for any injury resulting from the
30 employer's failure to comply with safety standards on the construction
31 project for which compensation is recoverable under the workers
32 compensation act, unless responsibility for safety practices is specifically
33 assumed by contract. The immunity provided by this subsection to any
34 construction design professional shall not apply to the negligent
35 preparation of design plans or specifications.

36 (e) An award of compensation for permanent partial impairment,
37 work disability, or permanent total disability shall be reduced by the
38 amount of functional impairment determined to be preexisting. Any such
39 reduction shall not apply to temporary total disability, nor shall it apply to
40 compensation for medical treatment.

41 (1) Where workers compensation benefits have previously been
42 awarded through settlement or judicial or administrative determination in
43 Kansas, the percentage basis of the prior settlement or award shall

1 conclusively establish the amount of functional impairment determined to
2 be preexisting. Where workers compensation benefits have not previously
3 been awarded through settlement or judicial or administrative
4 determination in Kansas, the amount of preexisting functional impairment
5 shall be established by competent evidence.

6 (2) In all cases, the applicable reduction shall be calculated as
7 follows:

8 (A) If the preexisting impairment is the result of injury sustained
9 while working for the employer against whom workers compensation
10 benefits are currently being sought, any award of compensation shall be
11 reduced by the current dollar value attributable under the workers
12 compensation act to the percentage of functional impairment determined to
13 be preexisting. The "current dollar value" shall be calculated by
14 multiplying the percentage of preexisting impairment by the compensation
15 rate in effect on the date of the accident or injury against which the
16 reduction will be applied.

17 (B) In all other cases, the employer against whom benefits are
18 currently being sought shall be entitled to a credit for the percentage of
19 preexisting impairment.

20 (f) If the employee receives, whether periodically or by lump sum,
21 retirement benefits under the federal social security act or retirement
22 benefits from any other retirement system, program, policy or plan ~~which~~
23 *that* is provided by the employer against which the claim is being made,
24 any compensation benefit payments which the employee is eligible to
25 receive under the workers compensation act for such claim shall be
26 reduced by the weekly equivalent amount of the total amount of all such
27 retirement benefits, less any portion of any such retirement benefit, other
28 than retirement benefits under the federal social security act, that is
29 attributable to payments or contributions made by the employee, but in no
30 event shall the workers compensation benefit be less than the workers
31 compensation benefit payable for the employee's percentage of functional
32 impairment. Where the employee elects to take retirement benefits in a
33 lump sum, the lump sum payment shall be amortized at the rate of 4% per
34 year over the employee's life expectancy to determine the weekly
35 equivalent value of the benefits.

36 Sec. 63. K.S.A. 2019 Supp. 44-706 is hereby amended to read as
37 follows: 44-706. The secretary shall examine whether an individual has
38 separated from employment for each week claimed. The secretary shall
39 apply the provisions of this section to the individual's most recent
40 employment prior to the week claimed. An individual shall be disqualified
41 for benefits:

42 (a) If the individual left work voluntarily without good cause
43 attributable to the work or the employer, subject to the other provisions of

1 this subsection. For purposes of this subsection, "good cause" is cause of
2 such gravity that would impel a reasonable, not supersensitive, individual
3 exercising ordinary common sense to leave employment. Good cause
4 requires a showing of good faith of the individual leaving work, including
5 the presence of a genuine desire to work. Failure to return to work after
6 expiration of approved personal or medical leave, or both, shall be
7 considered a voluntary resignation. After a temporary job assignment,
8 failure of an individual to affirmatively request an additional assignment
9 on the next succeeding workday, if required by the employment
10 agreement, after completion of a given work assignment, shall constitute
11 leaving work voluntarily. The disqualification shall begin the day
12 following the separation and shall continue until after the individual has
13 become reemployed and has had earnings from insured work of at least
14 three times the individual's weekly benefit amount. An individual shall not
15 be disqualified under this subsection if:

16 (1) The individual was forced to leave work because of illness or
17 injury upon the advice of a licensed and practicing health care provider
18 and, upon learning of the necessity for absence, immediately notified the
19 employer thereof, or the employer consented to the absence, and after
20 recovery from the illness or injury, when recovery was certified by a
21 practicing health care provider, the individual returned to the employer and
22 offered to perform services and the individual's regular work or
23 comparable and suitable work was not available. As used in this paragraph
24 "health care provider" means any person licensed by the proper licensing
25 authority of any state to engage in the practice of medicine and surgery,
26 osteopathy, chiropractic, dentistry, optometry, podiatry or psychology;

27 (2) the individual left temporary work to return to the regular
28 employer;

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

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

39 (5) the individual left work because of hazardous working conditions;
40 in determining whether or not working conditions are hazardous for an
41 individual, the degree of risk involved to the individual's health, safety and
42 morals, the individual's physical fitness and prior training and the working
43 conditions of workers engaged in the same or similar work for the same

1 and other employers in the locality shall be considered; as used in this
2 paragraph, "hazardous working conditions" means working conditions that
3 could result in a danger to the physical or mental well-being of the
4 individual; each determination as to whether hazardous working
5 conditions exist shall include, but shall not be limited to, a consideration
6 of: (A) The safety measures used or the lack thereof; and (B) the condition
7 of equipment or lack of proper equipment; no work shall be considered
8 hazardous if the working conditions surrounding the individual's work are
9 the same or substantially the same as the working conditions generally
10 prevailing among individuals performing the same or similar work for
11 other employers engaged in the same or similar type of activity;

12 (6) the individual left work to enter training approved under section
13 236(a)(1) of the federal trade act of 1974, provided the work left is not of a
14 substantially equal or higher skill level than the individual's past adversely
15 affected employment, as defined for purposes of the federal trade act of
16 1974, and wages for such work are not less than 80% of the individual's
17 average weekly wage as determined for the purposes of the federal trade
18 act of 1974;

19 (7) the individual left work because of unwelcome harassment of the
20 individual by the employer or another employee of which the employing
21 unit had knowledge and that would impel the average worker to give up
22 such worker's employment;

23 (8) the individual left work to accept better work; each determination
24 as to whether or not the work accepted is better work shall include, but
25 shall not be limited to, consideration of: (A) The rate of pay, the hours of
26 work and the probable permanency of the work left as compared to the
27 work accepted; (B) the cost to the individual of getting to the work left in
28 comparison to the cost of getting to the work accepted; and (C) the
29 distance from the individual's place of residence to the work accepted in
30 comparison to the distance from the individual's residence to the work left;

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

35 (10) the individual left work because of a substantial violation of the
36 work agreement by the employing unit and, before the individual left, the
37 individual had exhausted all remedies provided in such agreement for the
38 settlement of disputes before terminating. For the purposes of this
39 paragraph, a demotion based on performance does not constitute a
40 violation of the work agreement;

41 (11) after making reasonable efforts to preserve the work, the
42 individual left work due to a personal emergency of such nature and
43 compelling urgency that it would be contrary to good conscience to

1 impose a disqualification; or

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

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

6 (ii) the individual's need to relocate to another geographic area in
7 order to avoid future domestic violence;

8 (iii) the individual's need to address the physical, psychological and
9 legal impacts of domestic violence;

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

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

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

19 (i) A restraining order or other documentation of equitable relief by a
20 court of competent jurisdiction;

21 (ii) a police record documenting the abuse;

22 (iii) documentation that the abuser has been convicted of one or more
23 of the offenses enumerated in articles 34 and 35 of chapter 21 of the
24 Kansas Statutes Annotated, prior to their repeal, or articles 54 or 55 of
25 chapter 21 of the Kansas Statutes Annotated, *and amendments thereto*, or
26 K.S.A. 2019 Supp. 21-6104, 21-6325, 21-6326 or 21-6418 through 21-
27 6422, and amendments thereto, where the victim was a family or
28 household member;

29 (iv) medical documentation of the abuse;

30 (v) a statement provided by a counselor, social worker, health care
31 provider, clergy, shelter worker, legal advocate, domestic violence or
32 sexual assault advocate or other professional who has assisted the
33 individual in dealing with the effects of abuse on the individual or the
34 individual's family; or

35 (vi) a sworn statement from the individual attesting to the abuse.

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

40 (b) If the individual has been discharged or suspended for misconduct
41 connected with the individual's work. The disqualification shall begin the
42 day following the separation and shall continue until after the individual
43 becomes reemployed and in cases where the disqualification is due to

1 discharge for misconduct has had earnings from insured work of at least
2 three times the individual's determined weekly benefit amount, except that
3 if an individual is discharged for gross misconduct connected with the
4 individual's work, such individual shall be disqualified for benefits until
5 such individual again becomes employed and has had earnings from
6 insured work of at least eight times such individual's determined weekly
7 benefit amount. In addition, all wage credits attributable to the
8 employment from which the individual was discharged for gross
9 misconduct connected with the individual's work shall be canceled. No
10 such cancellation of wage credits shall affect prior payments made as a
11 result of a prior separation.

12 (1) (A) For the purposes of this subsection, "misconduct" is defined as
13 a violation of a duty or obligation reasonably owed the employer as a
14 condition of employment including, but not limited to, a violation of a
15 company rule, including a safety rule, if: ~~(A)~~(i) The individual knew or
16 should have known about the rule; ~~(B)~~(ii) the rule was lawful and
17 reasonably related to the job; and ~~(C)~~(iii) the rule was fairly and
18 consistently enforced.

19 (B) *The term "misconduct" does not include any violation of a duty,*
20 *obligation or company rule, if:*

21 (i) *The individual is a registered patient pursuant to section 8, and*
22 *amendments thereto; and*

23 (ii) *the basis for the violation is the possession of an identification*
24 *card issued under section 8, and amendments thereto, or the possession or*
25 *use of medical marijuana in accordance with the Kansas medical*
26 *marijuana regulation act, section 1 et seq., and amendments thereto.*

27 (2) (A) Failure of the employee to notify the employer of an absence
28 and an individual's leaving work prior to the end of such individual's
29 assigned work period without permission shall be considered prima facie
30 evidence of a violation of a duty or obligation reasonably owed the
31 employer as a condition of employment.

32 (B) For the purposes of this subsection, misconduct shall include, but
33 not be limited to, violation of the employer's reasonable attendance
34 expectations if the facts show:

35 (i) The individual was absent or tardy without good cause;

36 (ii) the individual had knowledge of the employer's attendance
37 expectation; and

38 (iii) the employer gave notice to the individual that future absence or
39 tardiness may or will result in discharge.

40 (C) For the purposes of this subsection, if an employee disputes being
41 absent or tardy without good cause, the employee shall present evidence
42 that a majority of the employee's absences or tardiness were for good
43 cause. If the employee alleges that the employee's repeated absences or

1 tardiness were the result of health related issues, such evidence shall
2 include documentation from a licensed and practicing health care provider
3 as defined in subsection (a)(1).

4 (3) (A) (i) The term "gross misconduct" as used in this subsection
5 shall be construed to mean conduct evincing extreme, willful or wanton
6 misconduct as defined by this subsection. Gross misconduct shall include,
7 but not be limited to: ~~(i)~~(a) Theft; ~~(ii)~~(b) fraud; ~~(iii)~~(c) intentional damage
8 to property; ~~(iv)~~(d) intentional infliction of personal injury; or ~~(v)~~(e) any
9 conduct that constitutes a felony.

10 (ii) *The term "gross misconduct" does not include any conduct of an*
11 *individual, if:*

12 (a) *The individual is a registered patient pursuant to section 8, and*
13 *amendments thereto; and*

14 (b) *the basis for such conduct is the possession of an identification*
15 *card issued under section 8, and amendments thereto, or the possession or*
16 *use of medical marijuana in accordance with the Kansas medical*
17 *marijuana regulation act, section 1 et seq., and amendments thereto.*

18 (B) For the purposes of this subsection, the following shall be
19 conclusive evidence of gross misconduct:

20 (i) The use of alcoholic liquor, cereal malt beverage or a
21 nonprescribed controlled substance by an individual while working;

22 (ii) the impairment caused by alcoholic liquor, cereal malt beverage
23 or a nonprescribed controlled substance by an individual while working;

24 (iii) a positive breath alcohol test or a positive chemical test,
25 provided:

26 (a) The test was either:

27 (1) Required by law and was administered pursuant to the drug free
28 workplace act, 41 U.S.C. § 701 et seq.;

29 (2) administered as part of an employee assistance program or other
30 drug or alcohol treatment program in which the employee was
31 participating voluntarily or as a condition of further employment;

32 (3) requested pursuant to a written policy of the employer of which
33 the employee had knowledge and was a required condition of
34 employment;

35 (4) required by law and the test constituted a required condition of
36 employment for the individual's job; or

37 (5) there was reasonable suspicion to believe that the individual used,
38 had possession of, or was impaired by alcoholic liquor, cereal malt
39 beverage or a nonprescribed controlled substance while working;

40 (b) the test sample was collected either:

41 (1) As prescribed by the drug free workplace act, 41 U.S.C. § 701 et
42 seq.;

43 (2) as prescribed by an employee assistance program or other drug or

1 alcohol treatment program in which the employee was participating
2 voluntarily or as a condition of further employment;

3 (3) as prescribed by the written policy of the employer of which the
4 employee had knowledge and which constituted a required condition of
5 employment;

6 (4) as prescribed by a test which was required by law and which
7 constituted a required condition of employment for the individual's job; or

8 (5) at a time contemporaneous with the events establishing probable
9 cause;

10 (c) the collecting and labeling of a chemical test sample was
11 performed by a licensed health care professional or any other individual
12 certified pursuant to paragraph—~~(b)(3)(A)(iii)(f)~~ *(b)(3)(B)(iii)(f)* or
13 authorized to collect or label test samples by federal or state law, or a
14 federal or state rule or regulation having the force or effect of law,
15 including law enforcement personnel;

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

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

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

30 (g) the foundation evidence establishes, beyond a reasonable doubt,
31 that the test results were from the sample taken from the individual;

32 (iv) an individual's refusal to submit to a chemical test or breath
33 alcohol test, provided:

34 (a) The test meets the standards of the drug free workplace act, 41
35 U.S.C. § 701 et seq.;

36 (b) the test was administered as part of an employee assistance
37 program or other drug or alcohol treatment program in which the
38 employee was participating voluntarily or as a condition of further
39 employment;

40 (c) the test was otherwise required by law and the test constituted a
41 required condition of employment for the individual's job;

42 (d) the test was requested pursuant to a written policy of the employer
43 of which the employee had knowledge and was a required condition of

1 employment; or

2 (e) there was reasonable suspicion to believe that the individual used,
3 possessed or was impaired by alcoholic liquor, cereal malt beverage or a
4 nonprescribed controlled substance while working;

5 (v) an individual's dilution or other tampering of a chemical test.

6 (C) For purposes of this subsection:

7 (i) "Alcohol concentration" means the number of grams of alcohol
8 per 210 liters of breath;

9 (ii) "alcoholic liquor" ~~shall be defined~~ *means the same* as provided in
10 K.S.A. 41-102, and amendments thereto;

11 (iii) "cereal malt beverage" ~~shall be defined~~ *means the same* as
12 provided in K.S.A. 41-2701, and amendments thereto;

13 (iv) "chemical test" ~~shall include~~ *includes*, but is not limited to, tests
14 of urine, blood or saliva;

15 (v) "controlled substance" ~~shall be defined~~ *means the same* as
16 provided in K.S.A. 2019 Supp. 21-5701, and amendments thereto;

17 (vi) "required by law" means required by a federal or state law, a
18 federal or state rule or regulation having the force and effect of law, a
19 county resolution or municipal ordinance, or a policy relating to public
20 safety adopted in an open meeting by the governing body of any special
21 district or other local governmental entity;

22 (vii) "positive breath test" ~~shall mean~~ *means* a test result showing an
23 alcohol concentration of 0.04 or greater, or the levels listed in 49 C.F.R.
24 part 40, if applicable, unless the test was administered as part of an
25 employee assistance program or other drug or alcohol treatment program
26 in which the employee was participating voluntarily or as a condition of
27 further employment, in which case "positive chemical test" ~~shall mean~~
28 *means* a test result showing an alcohol concentration at or above the levels
29 provided for in the assistance or treatment program;

30 (viii) "positive chemical test" ~~shall mean~~ *means* a chemical result
31 showing a concentration at or above the levels listed in K.S.A. 44-501, and
32 amendments thereto, or 49 C.F.R. part 40, as applicable, for the drugs or
33 abuse listed therein, unless the test was administered as part of an
34 employee assistance program or other drug or alcohol treatment program
35 in which the employee was participating voluntarily or as a condition of
36 further employment, in which case "positive chemical test" shall mean a
37 chemical result showing a concentration at or above the levels provided for
38 in the assistance or treatment program.

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

41 (A) The employer discharged the individual after learning the
42 individual was seeking other work or when the individual gave notice of
43 future intent to quit, except that the individual shall be disqualified after

1 the time at which such individual intended to quit and any individual who
2 commits misconduct after such individual gives notice to such individual's
3 intent to quit shall be disqualified;

4 (B) the individual was making a good-faith effort to do the assigned
5 work but was discharged due to:

6 (i) Inefficiency;

7 (ii) unsatisfactory performance due to inability, incapacity or lack of
8 training or experience;

9 (iii) isolated instances of ordinary negligence or inadvertence;

10 (iv) good-faith errors in judgment or discretion; or

11 (v) unsatisfactory work or conduct due to circumstances beyond the
12 individual's control; or

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

15 (c) If the individual has failed, without good cause, to either apply for
16 suitable work when so directed by the employment office of the secretary
17 of labor, or to accept suitable work when offered to the individual by the
18 employment office, the secretary of labor, or an employer, such
19 disqualification shall begin with the week in which such failure occurred
20 and shall continue until the individual becomes reemployed and has had
21 earnings from insured work of at least three times such individual's
22 determined weekly benefit amount. In determining whether or not any
23 work is suitable for an individual, the secretary of labor, or a person or
24 persons designated by the secretary, shall consider the degree of risk
25 involved to health, safety and morals, physical fitness and prior training,
26 experience and prior earnings, length of unemployment and prospects for
27 securing local work in the individual's customary occupation or work for
28 which the individual is reasonably fitted by training or experience, and the
29 distance of the available work from the individual's residence. Notwithstanding any other provisions of this act, an otherwise eligible
30 individual shall not be disqualified for refusing an offer of suitable
31 employment, or failing to apply for suitable employment when notified by
32 an employment office, or for leaving the individual's most recent work
33 accepted during approved training, including training approved under
34 section 236(a)(1) of the trade act of 1974, if the acceptance of or applying
35 for suitable employment or continuing such work would require the
36 individual to terminate approved training and no work shall be deemed
37 suitable and benefits shall not be denied under this act to any otherwise
38 eligible individual for refusing to accept new work under any of the
39 following conditions: (1) If the position offered is vacant due directly to a
40 strike, lockout or other labor dispute; (2) if the remuneration, hours or
41 other conditions of the work offered are substantially less favorable to the
42 individual than those prevailing for similar work in the locality; (3) if as a
43

1 condition of being employed, the individual would be required to join or to
2 resign from or refrain from joining any labor organization; and (4) if the
3 individual left employment as a result of domestic violence, and the
4 position offered does not reasonably accommodate the individual's
5 physical, psychological, safety, or legal needs relating to such domestic
6 violence.

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

32 (e) For any week with respect to which or a part of which the
33 individual has received or is seeking unemployment benefits under the
34 unemployment compensation law of any other state or of the United
35 States, except that if the appropriate agency of such other state or the
36 United States finally determines that the individual is not entitled to such
37 unemployment benefits, this disqualification shall not apply.

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

43 (g) For the period of five years beginning with the first day following

1 the last week of unemployment for which the individual received benefits,
2 or for five years from the date the act was committed, whichever is the
3 later, if the individual, or another in such individual's behalf with the
4 knowledge of the individual, has knowingly made a false statement or
5 representation, or has knowingly failed to disclose a material fact to obtain
6 or increase benefits under this act or any other unemployment
7 compensation law administered by the secretary of labor. In addition to the
8 penalties set forth in K.S.A. 44-719, and amendments thereto, an
9 individual who has knowingly made a false statement or representation or
10 who has knowingly failed to disclose a material fact to obtain or increase
11 benefits under this act or any other unemployment compensation law
12 administered by the secretary of labor shall be liable for a penalty in the
13 amount equal to 25% of the amount of benefits unlawfully received.
14 Notwithstanding any other provision of law, such penalty shall be
15 deposited into the employment security trust fund.

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

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

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

1 individual filed a timely claim for benefits and for which benefits were
2 denied solely by reason of this subsection.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

39 (t) (1) Any applicant for or recipient of unemployment benefits who
40 tests positive for unlawful use of a controlled substance or controlled
41 substance analog shall be required to complete a substance abuse treatment
42 program approved by the secretary of labor, secretary of commerce or
43 secretary for children and families, and a job skills program approved by

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

21 (2) Any individual who has been discharged or refused employment
22 for failing a preemployment drug screen required by an employer may
23 request that the drug screening specimen be sent to a different drug testing
24 facility for an additional drug screening. Any such individual who requests
25 an additional drug screening at a different drug testing facility shall be
26 required to pay the cost of drug screening.

27 (3) *The provisions of this subsection shall not apply to any individual*
28 *who is a registered patient pursuant to section 8, and amendments thereto,*
29 *for activities authorized by the Kansas medical marijuana regulation act,*
30 *section 1 et seq., and amendments thereto.*

31 (u) If the individual was found not to have a disqualifying
32 adjudication or conviction under K.S.A. 39-970 or 65-5117, and
33 amendments thereto, was hired and then was subsequently convicted of a
34 disqualifying felony under K.S.A. 39-970 or 65-5117, and amendments
35 thereto, and discharged pursuant to K.S.A. 39-970 or 65-5117, and
36 amendments thereto. The disqualification shall begin the day following the
37 separation and shall continue until after the individual becomes
38 reemployed and has had earnings from insured work of at least three times
39 the individual's determined weekly benefit amount.

40 (v) Notwithstanding the provisions of any subsection, an individual
41 shall not be disqualified for such week of part-time employment in a
42 substitute capacity for an educational institution if such individual's most
43 recent employment prior to the individual's benefit year begin date was for

1 a non-educational institution and such individual demonstrates application
2 for work in such individual's customary occupation or for work for which
3 the individual is reasonably fitted by training or experience.

4 Sec. 64. K.S.A. 44-1009 is hereby amended to read as follows: 44-
5 1009. (a) It shall be an unlawful employment practice:

6 (1) For an employer, because of the race, religion, color, sex,
7 disability, national origin or ancestry of any person to refuse to hire or
8 employ such person to bar or discharge such person from employment or
9 to otherwise discriminate against such person in compensation or in terms,
10 conditions or privileges of employment; to limit, segregate, separate,
11 classify or make any distinction in regards to employees; or to follow any
12 employment procedure or practice which, in fact, results in discrimination,
13 segregation or separation without a valid business necessity.

14 (2) For a labor organization, because of the race, religion, color, sex,
15 disability, national origin or ancestry of any person, to exclude or to expel
16 from its membership such person or to discriminate in any way against any
17 of its members or against any employer or any person employed by an
18 employer.

19 (3) For any employer, employment agency or labor organization to
20 print or circulate or cause to be printed or circulated any statement,
21 advertisement or publication, or to use any form of application for
22 employment or membership or to make any inquiry in connection with
23 prospective employment or membership, which expresses, directly or
24 indirectly, any limitation, specification or discrimination as to race,
25 religion, color, sex, disability, national origin or ancestry, or any intent to
26 make any such limitation, specification or discrimination, unless based on
27 a bona fide occupational qualification.

28 (4) For any employer, employment agency or labor organization to
29 discharge, expel or otherwise discriminate against any person because such
30 person has opposed any practices or acts forbidden under this act or
31 because such person has filed a complaint, testified or assisted in any
32 proceeding under this act.

33 (5) For an employment agency to refuse to list and properly classify
34 for employment or to refuse to refer any person for employment or
35 otherwise discriminate against any person because of such person's race,
36 religion, color, sex, disability, national origin or ancestry; or to comply
37 with a request from an employer for a referral of applicants for
38 employment if the request expresses, either directly or indirectly, any
39 limitation, specification or discrimination as to race, religion, color, sex,
40 disability, national origin or ancestry.

41 (6) For an employer, labor organization, employment agency, or
42 school which provides, coordinates or controls apprenticeship, on-the-job,
43 or other training or retraining program, to maintain a practice of

1 discrimination, segregation or separation because of race, religion, color,
2 sex, disability, national origin or ancestry, in admission, hiring,
3 assignments, upgrading, transfers, promotion, layoff, dismissal,
4 apprenticeship or other training or retraining program, or in any other
5 terms, conditions or privileges of employment, membership,
6 apprenticeship or training; or to follow any policy or procedure which, in
7 fact, results in such practices without a valid business motive.

8 (7) For any person, whether an employer or an employee or not, to
9 aid, abet, incite, compel or coerce the doing of any of the acts forbidden
10 under this act, or attempt to do so.

11 (8) For an employer, labor organization, employment agency or joint
12 labor-management committee to:

13 (A) Limit, segregate or classify a job applicant or employee in a way
14 that adversely affects the opportunities or status of such applicant or
15 employee because of the disability of such applicant or employee;

16 (B) participate in a contractual or other arrangement or relationship,
17 including a relationship with an employment or referral agency, labor
18 union, an organization providing fringe benefits to an employee or an
19 organization providing training and apprenticeship programs that has the
20 effect of subjecting a qualified applicant or employee with a disability to
21 the discrimination prohibited by this act;

22 (C) utilize standards criteria, or methods of administration that have
23 the effect of discrimination on the basis of disability or that perpetuate the
24 discrimination of others who are subject to common administrative
25 control;

26 (D) exclude or otherwise deny equal jobs or benefits to a qualified
27 individual because of the known disability of an individual with whom the
28 qualified individual is known to have a relationship or association;

29 (E) not make reasonable accommodations to the known physical or
30 mental limitations of an otherwise qualified individual with a disability
31 who is an applicant or employee, unless such employer, labor organization,
32 employment agency or joint labor-management committee can
33 demonstrate that the accommodation would impose an undue hardship on
34 the operation of the business thereof;

35 (F) deny employment opportunities to a job applicant or employee
36 who is an otherwise qualified individual with a disability, if such denial is
37 based on the need to make reasonable accommodation to the physical or
38 mental impairments of the employee or applicant;

39 (G) use qualification standards, employment tests or other selection
40 criteria that screen out or tend to screen out an individual with a disability
41 or a class of individuals with disabilities unless the standard, test or other
42 selection criteria, as used, is shown to be job-related for the position in
43 question and is consistent with business necessity; or

1 (H) fail to select and administer tests concerning employment in the
2 most effective manner to ensure that, when such test is administered to a
3 job applicant or employee who has a disability that impairs sensory,
4 manual or speaking skills, the test results accurately reflect the skills,
5 aptitude or whatever other factor of such applicant or employee that such
6 test purports to measure, rather than reflecting the impaired sensory,
7 manual or speaking skills of such employee or applicant, except where
8 such skills are the factors that the test purports to measure).

9 (9) For any employer to:

10 (A) Seek to obtain, to obtain or to use genetic screening or testing
11 information of an employee or a prospective employee to distinguish
12 between or discriminate against or restrict any right or benefit otherwise
13 due or available to an employee or a prospective employee; or

14 (B) subject, directly or indirectly, any employee or prospective
15 employee to any genetic screening or test.

16 (10) (A) *For an employer, because a person is a registered patient or
17 caregiver pursuant to section 8, and amendments thereto, or possesses or
18 uses medical marijuana in accordance with the Kansas medical marijuana
19 regulation act, section 1 et seq., and amendments thereto, to:*

20 (i) *Refuse to hire or employ a person;*

21 (ii) *bar or discharge such person from employment; or*

22 (iii) *otherwise discriminate against such person in compensation or
23 in terms, conditions or privileges of employment without a valid business
24 necessity.*

25 (B) *For a labor organization, because a person is a registered patient
26 or caregiver pursuant to section 8, and amendments thereto, or possesses
27 or uses medical marijuana in accordance with the Kansas medical
28 marijuana regulation act, section 1 et seq., and amendments thereto, to
29 exclude or expel such person from its membership.*

30 (C) *Nothing in this paragraph shall be construed to prohibit a person
31 from taking any action necessary to procure or retain any monetary
32 benefit provided under federal law, or any rules and regulations adopted
33 thereunder, or to obtain or maintain any license, certificate, registration
34 or other legal status issued or bestowed under federal law, or any rules
35 and regulations adopted thereunder.*

36 (b) It shall not be an unlawful employment practice to fill vacancies
37 in such way as to eliminate or reduce imbalance with respect to race,
38 religion, color, sex, disability, national origin or ancestry.

39 (c) It shall be an unlawful discriminatory practice:

40 (1) For any person, as defined herein being the owner, operator,
41 lessee, manager, agent or employee of any place of public accommodation
42 to refuse, deny or make a distinction, directly or indirectly, in offering its
43 goods, services, facilities, and accommodations to any person as covered

1 by this act because of race, religion, color, sex, disability, national origin or
2 ancestry, except where a distinction because of sex is necessary because of
3 the intrinsic nature of such accommodation.

4 (2) For any person, whether or not specifically enjoined from
5 discriminating under any provisions of this act, to aid, abet, incite, compel
6 or coerce the doing of any of the acts forbidden under this act, or to
7 attempt to do so.

8 (3) For any person, to refuse, deny, make a distinction, directly or
9 indirectly, or discriminate in any way against persons because of the race,
10 religion, color, sex, disability, national origin or ancestry of such persons
11 in the full and equal use and enjoyment of the services, facilities,
12 privileges and advantages of any institution, department or agency of the
13 state of Kansas or any political subdivision or municipality thereof.

14 Sec. 65. K.S.A. 44-1015 is hereby amended to read as follows: 44-
15 1015. As used in this act, unless the context otherwise requires:

16 (a) "Commission" means the Kansas human rights commission.

17 (b) "Real property" means and includes:

18 (1) All vacant or unimproved land; and

19 (2) any building or structure ~~which~~ that is occupied or designed or
20 intended for occupancy, or any building or structure having a portion
21 thereof ~~which~~ that is occupied or designed or intended for occupancy.

22 (c) "Family" includes a single individual.

23 (d) "Person" means an individual, corporation, partnership,
24 association, labor organization, legal representative, mutual company,
25 joint-stock company, trust, unincorporated organization, trustee, trustee in
26 bankruptcy, receiver and fiduciary.

27 (e) "To rent" means to lease, to sublease, to let and otherwise to grant
28 for a consideration the right to occupy premises not owned by the
29 occupant.

30 (f) "Discriminatory housing practice" means any act that is unlawful
31 under K.S.A. 44-1016, 44-1017 or 44-1026, and amendments thereto, *or*
32 *section 48, and amendments thereto.*

33 (g) "Person aggrieved" means any person who claims to have been
34 injured by a discriminatory housing practice or believes that such person
35 will be injured by a discriminatory housing practice that is about to occur.

36 (h) "Disability" ~~has the meaning provided by~~ *means the same as*
37 *defined in* K.S.A. 44-1002, and amendments thereto.

38 (i) "Familial status" means having one or more individuals less than
39 18 years of age domiciled with:

40 (1) A parent or another person having legal custody of such
41 individual or individuals; or

42 (2) the designee of such parent or other person having such custody,
43 with the written permission of such parent or other person.

1 Sec. 66. K.S.A. 2019 Supp. 65-1120 is hereby amended to read as
2 follows: 65-1120. (a) *Grounds for disciplinary actions.* The board may
3 deny, revoke, limit or suspend any license or authorization to practice
4 nursing as a registered professional nurse, as a licensed practical nurse, as
5 an advanced practice registered nurse or as a registered nurse anesthetist
6 that is issued by the board or applied for under this act, or may require the
7 licensee to attend a specific number of hours of continuing education in
8 addition to any hours the licensee may already be required to attend or
9 may publicly or privately censure a licensee or holder of a temporary
10 permit or authorization, if the applicant, licensee or holder of a temporary
11 permit or authorization is found after hearing:

12 (1) To be guilty of fraud or deceit in practicing nursing or in
13 procuring or attempting to procure a license to practice nursing;

14 (2) to have been guilty of a felony or to have been guilty of a
15 misdemeanor involving an illegal drug offense unless the applicant or
16 licensee establishes sufficient rehabilitation to warrant the public trust,
17 except that notwithstanding K.S.A. 74-120, and amendments thereto, no
18 license or authorization to practice nursing as a licensed professional
19 nurse, as a licensed practical nurse, as an advanced practice registered
20 nurse or registered nurse anesthetist shall be granted to a person with a
21 felony conviction for a crime against persons as specified in article 34 of
22 chapter 21 of the Kansas Statutes Annotated, prior to their repeal, or article
23 54 of chapter 21 of the Kansas Statutes Annotated, *and amendments*
24 *thereto*, or K.S.A. 2019 Supp. 21-6104, 21-6325, 21-6326 or 21-6418, and
25 amendments thereto;

26 (3) has been convicted or found guilty or has entered into an agreed
27 disposition of a misdemeanor offense related to the practice of nursing as
28 determined on a case-by-case basis;

29 (4) to have committed an act of professional incompetency as defined
30 in subsection (e);

31 (5) to be unable to practice with skill and safety due to current abuse
32 of drugs or alcohol;

33 (6) to be a person who has been adjudged in need of a guardian or
34 conservator, or both, under the act for obtaining a guardian or conservator,
35 or both, and who has not been restored to capacity under that act;

36 (7) to be guilty of unprofessional conduct as defined by rules and
37 regulations of the board;

38 (8) to have willfully or repeatedly violated the provisions of the
39 Kansas nurse practice act or any rules and regulations adopted pursuant to
40 that act, including K.S.A. 65-1114 and 65-1122, and amendments thereto;

41 (9) to have a license to practice nursing as a registered nurse or as a
42 practical nurse denied, revoked, limited or suspended, or to be publicly or
43 privately censured, by a licensing authority of another state, agency of the

1 United States government, territory of the United States or country or to
2 have other disciplinary action taken against the applicant or licensee by a
3 licensing authority of another state, agency of the United States
4 government, territory of the United States or country. A certified copy of
5 the record or order of public or private censure, denial, suspension,
6 limitation, revocation or other disciplinary action of the licensing authority
7 of another state, agency of the United States government, territory of the
8 United States or country shall constitute prima facie evidence of such a
9 fact for purposes of this paragraph (9); or

10 (10) to have assisted suicide in violation of K.S.A. 21-3406, prior to
11 its repeal, or K.S.A. 2019 Supp. 21-5407, and amendments thereto, as
12 established by any of the following:

13 (A) A copy of the record of criminal conviction or plea of guilty for a
14 felony in violation of K.S.A. 21-3406, prior to its repeal, or K.S.A. 2019
15 Supp. 21-5407, and amendments thereto.

16 (B) A copy of the record of a judgment of contempt of court for
17 violating an injunction issued under K.S.A. 2019 Supp. 60-4404, and
18 amendments thereto.

19 (C) A copy of the record of a judgment assessing damages under
20 K.S.A. 2019 Supp. 60-4405, and amendments thereto.

21 (b) *Proceedings.* Upon filing of a sworn complaint with the board
22 charging a person with having been guilty of any of the unlawful practices
23 specified in subsection (a), two or more members of the board shall
24 investigate the charges, or the board may designate and authorize an
25 employee or employees of the board to conduct an investigation. After
26 investigation, the board may institute charges. If an investigation, in the
27 opinion of the board, reveals reasonable grounds for believing the
28 applicant or licensee is guilty of the charges, the board shall fix a time and
29 place for proceedings, which shall be conducted in accordance with the
30 provisions of the Kansas administrative procedure act.

31 (c) *Witnesses.* No person shall be excused from testifying in any
32 proceedings before the board under this act or in any civil proceedings
33 under this act before a court of competent jurisdiction on the ground that
34 such testimony may incriminate the person testifying, but such testimony
35 shall not be used against the person for the prosecution of any crime under
36 the laws of this state except the crime of perjury as defined in K.S.A. 2019
37 Supp. 21-5903, and amendments thereto.

38 (d) *Costs.* If final agency action of the board in a proceeding under
39 this section is adverse to the applicant or licensee, the costs of the board's
40 proceedings shall be charged to the applicant or licensee as in ordinary
41 civil actions in the district court, but if the board is the unsuccessful party,
42 the costs shall be paid by the board. Witness fees and costs may be taxed
43 by the board according to the statutes relating to procedure in the district

1 court. All costs accrued by the board, when it is the successful party, and
 2 ~~which that~~ the attorney general certifies cannot be collected from the
 3 applicant or licensee shall be paid from the board of nursing fee fund. All
 4 moneys collected following board proceedings shall be credited in full to
 5 the board of nursing fee fund.

6 (e) *Professional incompetency defined.* As used in this section,
 7 "professional incompetency" means:

8 (1) One or more instances involving failure to adhere to the
 9 applicable standard of care to a degree ~~which that~~ constitutes gross
 10 negligence, as determined by the board;

11 (2) repeated instances involving failure to adhere to the applicable
 12 standard of care to a degree ~~which that~~ constitutes ordinary negligence, as
 13 determined by the board; or

14 (3) a pattern of practice or other behavior ~~which that~~ demonstrates a
 15 manifest incapacity or incompetence to practice nursing.

16 (f) *Criminal justice information.* The board upon request shall receive
 17 from the Kansas bureau of investigation such criminal history record
 18 information relating to arrests and criminal convictions as necessary for
 19 the purpose of determining initial and continuing qualifications of
 20 licensees of and applicants for licensure by the board.

21 (g) *Medical marijuana exemption.* *The board shall not deny, revoke,*
 22 *limit or suspend an advanced practice registered nurse's license or*
 23 *publicly or privately censure an advanced practice registered nurse for*
 24 *any of the following:*

25 (1) *The advanced practice registered nurse has:*

26 (A) *Advised a patient about the possible benefits and risks of using*
 27 *medical marijuana; or*

28 (B) *advised a patient that using medical marijuana may mitigate the*
 29 *patient's symptoms; or*

30 (2) *the advanced practice registered nurse is a registered patient or*
 31 *caregiver pursuant to section 8, and amendments thereto, possesses or has*
 32 *possessed, or uses or has used medical marijuana in accordance with the*
 33 *Kansas medical marijuana regulation act, section 1 et seq., and*
 34 *amendments thereto.*

35 Sec. 67. K.S.A. 65-28b08 is hereby amended to read as follows: 65-
 36 28b08. (a) The board may deny, revoke, limit or suspend any license or
 37 authorization issued to a certified nurse-midwife to engage in the
 38 independent practice of midwifery that is issued by the board or applied
 39 for under this act, or may publicly censure a licensee or holder of a
 40 temporary permit or authorization, if the applicant or licensee is found
 41 after a hearing:

42 (1) To be guilty of fraud or deceit while engaging in the independent
 43 practice of midwifery or in procuring or attempting to procure a license to

- 1 engage in the independent practice of midwifery;
- 2 (2) to have been found guilty of a felony or to have been found guilty
3 of a misdemeanor involving an illegal drug offense unless the applicant or
4 licensee establishes sufficient rehabilitation to warrant the public trust,
5 except that notwithstanding K.S.A. 74-120, and amendments thereto, no
6 license or authorization to practice and engage in the independent practice
7 of midwifery shall be granted to a person with a felony conviction for a
8 crime against persons as specified in article 34 of chapter 21 of the Kansas
9 Statutes Annotated, prior to its repeal, or article 54 of chapter 21 of the
10 Kansas Statutes Annotated, and amendments thereto, or K.S.A. 2019 Supp.
11 21-6104, 21-6325, 21-6326 or 21-6418, and amendments thereto;
- 12 (3) to have committed an act of professional incompetence as defined
13 in subsection (c);
- 14 (4) to be unable to practice the healing arts with reasonable skill and
15 safety by reason of impairment due to physical or mental illness or
16 condition or use of alcohol, drugs or controlled substances. All
17 information, reports, findings and other records relating to impairment
18 shall be confidential and not subject to discovery or release to any person
19 or entity outside of a board proceeding. The provisions of this paragraph
20 providing confidentiality of records shall expire on July 1, 2022, unless the
21 legislature reviews and reenacts such provisions pursuant to K.S.A. 45-
22 229, and amendments thereto, prior to July 1, 2022;
- 23 (5) to be a person who has been adjudged in need of a guardian or
24 conservator, or both, under the act for obtaining a guardian or conservator,
25 or both, and who has not been restored to capacity under that act;
- 26 (6) to be guilty of unprofessional conduct as defined by rules and
27 regulations of the board;
- 28 (7) to have willfully or repeatedly violated the provisions of the
29 Kansas nurse practice act or any rules and regulations adopted pursuant to
30 that act;
- 31 (8) to have a license to practice nursing as a registered nurse or as a
32 practical nurse denied, revoked, limited or suspended, or to have been
33 publicly or privately censured, by a licensing authority of another state,
34 agency of the United States government, territory of the United States or
35 country, or to have other disciplinary action taken against the applicant or
36 licensee by a licensing authority of another state, agency of the United
37 States government, territory of the United States or country. A certified
38 copy of the record or order of public or private censure, denial, suspension,
39 limitation, revocation or other disciplinary action of the licensing authority
40 of another state, agency of the United States government, territory of the
41 United States or country shall constitute prima facie evidence of such a
42 fact for purposes of this paragraph; or
- 43 (9) to have assisted suicide in violation of K.S.A. 21-3406, prior to its

1 repeal, or K.S.A. 2019 Supp. 21-5407, and amendments thereto, as
2 established by any of the following:

3 (A) A copy of the record of criminal conviction or plea of guilty to a
4 felony in violation of K.S.A. 21-3406, prior to its repeal, or K.S.A. 2019
5 Supp. 21-5407, and amendments thereto;

6 (B) a copy of the record of a judgment of contempt of court for
7 violating an injunction issued under K.S.A. 60-4404, and amendments
8 thereto; or

9 (C) a copy of the record of a judgment assessing damages under
10 K.S.A. 60-4405, and amendments thereto.

11 (b) No person shall be excused from testifying in any proceedings
12 before the board under this act or in any civil proceedings under this act
13 before a court of competent jurisdiction on the ground that such testimony
14 may incriminate the person testifying, but such testimony shall not be used
15 against the person for the prosecution of any crime under the laws of this
16 state, except the crime of perjury as defined in K.S.A. 2019 Supp. 21-
17 5903, and amendments thereto.

18 (c) *The board shall not deny, revoke, limit or suspend any license or*
19 *authorization issued to a certified nurse-midwife or publicly censure a*
20 *certified nurse-midwife upon any of the following:*

21 (1) *The certified nurse-midwife has:*

22 (A) *Advised a patient about the possible benefits and risks of using*
23 *medical marijuana; or*

24 (B) *advised the patient that using medical marijuana may mitigate*
25 *the patient's symptoms; or*

26 (2) *the certified nurse-midwife is a registered patient or caregiver*
27 *pursuant to section 8, and amendments thereto, possesses or has*
28 *possessed, or uses or has used medical marijuana in accordance with the*
29 *Kansas medical marijuana regulation act, section 1 et seq., and*
30 *amendments thereto.*

31 (d) As used in this section, "professional incompetency" means:

32 (1) One or more instances involving failure to adhere to the
33 applicable standard of care to a degree which constitutes gross negligence,
34 as determined by the board;

35 (2) repeated instances involving failure to adhere to the applicable
36 standard of care to a degree which constitutes ordinary negligence, as
37 determined by the board; or

38 (3) a pattern of practice or other behavior which demonstrates a
39 manifest incapacity or incompetence to engage in the independent practice
40 of midwifery.

41 ~~(d)~~(e) The board, upon request, shall receive from the Kansas bureau
42 of investigation such criminal history record information relating to arrests
43 and criminal convictions, as necessary, for the purpose of determining

1 initial and continuing qualifications of licensees and applicants for
2 licensure by the board.

3 ~~(e) The provisions of this section shall become effective on January 1,~~
4 ~~2017.~~

5 Sec. 68. K.S.A. 79-5201 is hereby amended to read as follows: 79-
6 5201. As used in ~~this act~~ *article 52 of chapter 79 of the Kansas Statutes*
7 *Annotated, and amendments thereto:*

8 (a) ~~"Marijuana" means any marijuana, whether real or counterfeit, as~~
9 ~~defined by K.S.A. 2019 Supp. 21-5701, and amendments thereto, which is~~
10 ~~held, possessed, transported, transferred, sold or offered to be sold in~~
11 ~~violation of the laws of Kansas;~~

12 (b) ~~"Controlled substance" means any drug or substance, whether real~~
13 ~~or counterfeit, as defined by K.S.A. 2019 Supp. 21-5701, and amendments~~
14 ~~thereto, which that is held, possessed, transported, transferred, sold or~~
15 ~~offered to be sold in violation of the laws of Kansas. Such term shall not~~
16 ~~include marijuana;~~

17 ~~(e)(b) "dealer" means any person who, in violation of Kansas law,~~
18 ~~manufactures, produces, ships, transports or imports into Kansas or in any~~
19 ~~manner acquires or possesses more than 28 grams of marijuana, or more~~
20 ~~than one gram of any controlled substance, or 10 or more dosage units of~~
21 ~~any controlled substance which that is not sold by weight;~~

22 ~~(d)(c) "domestic marijuana plant" means any cannabis plant at any~~
23 ~~level of growth which that is harvested or tended, manicured, irrigated,~~
24 ~~fertilized or where there is other evidence that it has been treated in any~~
25 ~~other way in an effort to enhance growth;~~

26 (d) *"marijuana" means any marijuana, whether real or counterfeit,*
27 *as defined in K.S.A. 2019 Supp. 21-5701, and amendments thereto, that is*
28 *held, possessed, transported, transferred, sold or offered for sale in*
29 *violation of the laws of Kansas; and*

30 (e) *"medical mariuana" means the same as defined in section 2, and*
31 *amendments thereto.*

32 Sec. 69. K.S.A. 79-5210 is hereby amended to read as follows: 79-
33 5210. Nothing in this act requires persons registered under article 16 of
34 chapter 65 of the Kansas Statutes Annotated, *and amendments thereto*, or
35 otherwise lawfully in possession of marijuana, *medical marijuana* or a
36 controlled substance to pay the tax required under this act.

37 Sec. 70. K.S.A. 44-1009, 44-1015, 65-28b08, 79-5201 and 79-5210
38 and K.S.A. 2019 Supp. 21-5703, 21-5705, 21-5706, 21-5707, 21-5709, 21-
39 5710, 23-3201, 38-2269, 44-501, 44-706 and 65-1120 are hereby repealed.

40 Sec. 71. This act shall take effect and be in force from and after its
41 publication in the statute book.