

Substitute for HOUSE BILL No. 2183

AN ACT concerning the department of health and environment; relating to the designation and control of infectious and contagious diseases; concerning the office of laboratory services; creating the office of laboratory services operating fund and providing for certain fees and deposits to such fund; concerning health information technology; relating to the medical assistance recovery program; amending K.S.A. 39-702, 58-3957, 65-116a, 65-128, 65-157, 65-1,109a and 75-5608 and K.S.A. 2012 Supp. 28-115, 39-709, 65-6821, 65-6822, 65-6823, 65-6824, 65-6825, 65-6828, 65-6829, 65-6830, 65-6831, 65-6832, 65-6833 and 65-6834 and repealing the existing sections; also repealing K.S.A. 75-5607 and K.S.A. 2012 Supp. 65-129a, 65-6826 and 65-6827.

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

Section 1. K.S.A. 65-116a is hereby amended to read as follows: 65-116a. As used in ~~this act~~ K.S.A. 65-116a through K.S.A. 2012 Supp. 65-129f, and amendments thereto:

(a) ~~The word “tuberculosis” shall be construed to mean that the disease is in a communicable or infectious stage as established by chest x-ray, microscopical examination of sputum, or other diagnostic procedures approved by the secretary of health and environment, and “Blood” means human blood, human blood components and products made from human blood.~~

(b) ~~the words “Health officer” shall include~~ means the secretary of health and environment or the secretary’s designee and all local health officers.

(c) *“Infectious and contagious diseases” means those diseases so designated by the secretary of health and environment pursuant to K.S.A. 65-128, and amendments thereto.*

(d) *“Occupational exposure” means skin, eye, mucous membrane or parenteral contact with blood or other potentially infectious materials that might result from the performance of an employee’s duties.*

(e) *“Other potentially infectious materials” means: (1) The human body fluids including semen, vaginal secretions, cerebrospinal fluid, synovial fluid, pleural fluid, pericardial fluid, peritoneal fluid, amniotic fluid, saliva, any body fluid that is visibly contaminated with blood, and all body fluids in situations where it is difficult or impossible to differentiate between body fluids; (2) any unfixed tissue or organ (other than intact skin) from a human (living or dead); (3) cell or tissue cultures containing human immunodeficiency virus (HIV), organ cultures, and culture medium or other solutions containing HIV, the hepatitis B virus (HBV), hepatitis C virus (HCV) and blood, organs, or other tissues from experimental animals infected with HIV, HBV or HCV; and (4) other biological materials, as designated by the secretary of health and environment, capable of transmitting an infectious or contagious disease-causing agent from one person to another.*

(f) *“Tuberculosis” means a latent infection or active disease caused by the bacterium, mycobacterium tuberculosis.*

Sec. 2. K.S.A. 65-128 is hereby amended to read as follows: 65-128.

(a) For the protection of the public health and for the control of infectious or contagious diseases, the secretary of health and environment by rules and regulations shall designate such diseases as are infectious or contagious in their nature, and the secretary of health and environment is ~~authorized to adopt rules and regulations for the isolation and quarantine of such diseases and persons afflicted with or exposed to such diseases as may be necessary to prevent the spread and dissemination of diseases dangerous to the public health.~~

(b) ~~As used in K.S.A. 65-118, 65-119, 65-122, 65-123, 65-126 and 65-129, and amendments thereto, “infectious or contagious disease” means any disease designated by the secretary of health and environment as an infectious or contagious disease in accordance with subsection (a) but the infectious or contagious disease acquired immune deficiency syndrome or any causative agent thereof shall not constitute an infectious or contagious disease for the purposes of K.S.A. 65-118, 65-119, 65-122, 65-123, 65-126 and 65-129, and amendments thereto, because such disease is subject to the provisions of K.S.A. 65-6001 through 65-6007 and amendments thereto.~~ *The secretary of health and environment is authorized to issue such orders and adopt rules and regulations as may be medically necessary and reasonable to prevent the spread and dissemination of diseases injurious to the public health, including, but not limited to, providing for the testing for such diseases and the isolation and quarantine of persons afflicted with or exposed to such diseases.*

(c) *No later than January 1, 2014, the secretary shall develop and*

*adopt rules and regulations providing for the protection of individuals who provide medical or nursing services, clinical or forensic laboratory services, emergency medical services and firefighting, law enforcement and correctional services, or who provide any other service, or individuals who receive any such services or are in any other employment where the individual may encounter occupational exposure to blood and other potentially infectious materials.*

New Sec. 3. The changes to law in K.S.A. 65-116a and 65-128 made by this act shall be known as Chy J. Miller's law.

Sec. 4. K.S.A. 65-157 is hereby amended to read as follows: 65-157. The analysis of all waters required in the rules and regulations shall be made by the office of laboratory services of the department of health and environment and the fees collected under the provisions of this act by the secretary of health and environment shall be remitted by the secretary to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the ~~state general fund~~ *office of laboratory services operating fund.*

Sec. 5. K.S.A. 65-1,109a is hereby amended to read as follows: 65-1,109a. (a) The secretary of health and environment may adopt rules and regulations establishing: (1) Procedures and qualifications for certification of laboratories performing analyses required pursuant to K.S.A. 65-161 et seq., 65-171d, 65-3001 et seq., 65-3401 et seq. or 65-3430 et seq. or K.S.A. 65-3452a et seq. or 65-34,105 et seq., and amendments thereto; and (2) a schedule of fees to defray all or part of the costs of administering the certification program. Such fees shall not be refundable. Failure to pay assessed fees shall be cause for denial of certification.

(b) Any person who violates any provision of the rules and regulations adopted under this act shall, after notice and hearing in accordance with the Kansas administrative procedure act, be subject to suspension, denial or revocation of any certification granted hereunder and a civil penalty not to exceed \$500. Each day a violation continues shall be deemed a separate violation.

(c) The secretary of health and environment shall remit all moneys received from fees or penalties pursuant to this section to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the ~~state general fund~~ *office of laboratory services operating fund.*

Sec. 6. K.S.A. 75-5608 is hereby amended to read as follows: 75-5608. (a) *There is hereby established under the supervision of the secretary of health and environment, an office of laboratory services.* The office of laboratory services shall provide laboratory information and perform laboratory tests and experiments as directed by the secretary of health and environment and shall exercise such other powers, duties and functions as the secretary of health and environment may direct.

(b) *The secretary may adopt rules and regulations for the collection and biological or chemical analysis of samples received by the office of laboratory services. The secretary, by adoption of rules and regulations, may fix fees for any biological or chemical analysis services provided by the office of laboratory services and waive any such fees whenever the secretary finds that waiver is in the interest of protecting the public health and safety. The secretary shall waive fees for such services provided to public health departments and state hospitals. Fees charged and collected shall not exceed the actual cost of the analysis and testing provided by the office of laboratory services.*

(c) *Fees collected under this section shall be remitted by the secretary to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the office of laboratory services operating fund.*

New Sec. 7. (a) There is hereby created in the state treasury the office of laboratory services operating fund. Expenditures from the office of laboratory services operating fund shall be used by the department of health and environment only for the purposes of operating the office of laboratory services. All such expenditures from the office of laboratory services operating fund shall be made in accordance with appropriations

acts upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the secretary of health and environment or the secretary's designee.

(b) On or before the 10th day of each month, the director of accounts and reports shall transfer from the state general fund to the office of laboratory services operating fund interest earnings based on:

(1) The average daily balance of moneys in the office of laboratory services operating fund, for the preceding month; and

(2) the net earnings rate of the pooled money investment portfolio for the preceding month.

Sec. 8. K.S.A. 2012 Supp. 65-6821 is hereby amended to read as follows: 65-6821. ~~(a)~~ K.S.A. 2012 Supp. 65-6821 through 65-6834 and section 20, and amendments thereto, shall be known and may be cited as the Kansas health information technology and exchange act.

~~(b) This section shall take effect on and after July 1, 2011.~~

Sec. 9. K.S.A. 2012 Supp. 65-6822 is hereby amended to read as follows: 65-6822. As used in the Kansas health information technology and exchange act:

(a) "Act" means the Kansas health information technology and exchange act.

(b) "Approved ~~HIO~~ health information organization" means a health information organization operating in the state which has been approved by the corporation under a valid certificate of authority issued by the department.

(c) "Corporation" means the Kansas health information exchange, inc., created by executive order 10-06. "Authorization" means a document that permits a covered entity to use or disclose protected health information for purposes other than to carry out treatment, payment or health care operations, and that complies with the requirements of 45 C.F.R. § 164.508.

(d) "Covered entity" means a health care provider, a health care component of a hybrid entity, a health plan or a health care clearinghouse a covered entity as the term is defined in 45 C.F.R. § 160.103.

(e) "Designated record set" means designated record set as that term is defined by the HIPAA privacy rule. "Department" means the Kansas department of health and environment.

(f) "Disclosure" means disclosure as that term is defined by the HIPAA privacy rule.

(g) "DPOA-HC" means the person to whom a durable power of attorney for health care decisions has been granted by an individual in accordance with K.S.A. 58-625 et seq., and amendments thereto.

~~(h) "Electronic protected health information" means electronic health information as that term is defined by the HIPAA privacy rule.~~

~~(i) "Health care" means health care as that term is defined by the HIPAA privacy rule.~~

~~(j) "Health care clearinghouse" means a health care clearinghouse, as that term is defined by the HIPAA privacy rule, doing business within the state.~~

~~(k)~~ (h) "Health care provider" means a health care provider, as that term is defined by the HIPAA privacy rule, that furnishes health care to individuals in the state.

~~(l)~~ (i) "Health information" means health information as that term is defined by the HIPAA privacy rule.

~~(m)~~ (j) "Health information organization" means any entity operating in the state which:

(1) Maintains technical infrastructure for the electronic movement of health information among covered entities; and

(2) promulgates and enforces policies governing participation in such sharing of health information exchange.

~~(n)~~ (k) "Health information technology" means an information processing application using computer hardware and software for the storage, retrieval, use and disclosure of health information for communication, decision-making, quality, safety and efficiency of health care. "Health information technology" includes, but is not limited to: (1) An electronic health record; (2) a personal health record; (3) the sharing of health information exchange electronically; (4) electronic order entry; and (5) electronic decision support.

~~(o)~~ “Health plan” means a health plan, as that term is defined by the HIPAA privacy rule, doing business within the state.

~~(p)~~(l) “HIPAA privacy rule” means the privacy rule of the administrative simplification subtitle of the health insurance portability and accountability act of 1996 (Pub. L. No. 104-191) contained in 45 C.F.R. part 160 and 45 C.F.R. part 164, subparts A and E.

~~(q)~~ “Hybrid entity” means hybrid entity as that term is defined by the HIPAA privacy rule.

~~(r)~~(m) “Individual” means individual as that term is defined by the HIPAA privacy rule.

~~(s)~~(n) “Individually identifiable health information” means individually identifiable health information as that term is defined by the HIPAA privacy rule.

~~(t)~~ “Interoperability” means the capacity of two or more information systems to exchange information or data in an accurate, effective, secure and consistent manner.

~~(u)~~(o) “Participation agreement” means a written agreement between a covered entity and an approved ~~HHO~~ health information organization concerning the covered entity’s participation in the approved ~~HHO~~ health information organization on terms consistent with K.S.A. 2012 Supp. 65-6832, and amendments thereto.

~~(v)~~(p) “Personal representative” means the person who has the legal authority to act on behalf of an individual.

~~(w)~~(q) “Protected health information” means protected health information as that term is defined by the HIPAA privacy rule.

~~(x)~~ “Public health authority” means public health authority as that term is defined by the HIPAA privacy rule.

~~(y)~~(r) “Secretary” means the secretary of health and environment.

~~(z)~~ “Standard authorization form” means the standard authorization form developed and promulgated by the secretary pursuant to K.S.A. 2012 Supp. 65-6826, and amendments thereto.

~~(aa)~~(s) “State” means the state of Kansas.

~~(bb)~~(t) “Use” means, with respect to individually identifiable health information, use as the term is defined by the HIPAA privacy rule.

~~This section shall take effect on and after July 1, 2011.~~

Sec. 10. K.S.A. 2012 Supp. 65-6823 is hereby amended to read as follows: 65-6823. ~~(a)~~ It is the purpose of this act to harmonize state law with the HIPAA privacy rule with respect to individual access to protected health information, proper safeguarding of protected health information, and the use and disclosure of protected health information for purposes of facilitating the development and use of health information technology and ~~health information exchange~~ the sharing of health information electronically.

~~(b) This section shall take effect on and after July 1, 2011.~~

Sec. 11. K.S.A. 2012 Supp. 65-6824 is hereby amended to read as follows: 65-6824. (a) A covered entity shall provide an individual or such individual’s personal representative with access to the individual’s protected health information maintained by the, collected, used or disseminated by or for the covered entity in a designated record set in compliance with 45 C.F.R. § 164.524.

(b) A covered entity shall implement and maintain appropriate administrative, technical and physical safeguards to protect the privacy of protected health information in a manner consistent with 45 C.F.R. § 164.530(c).

~~(c) This section shall take effect on and after July 1, 2011.~~

Sec. 12. K.S.A. 2012 Supp. 65-6825 is hereby amended to read as follows: 65-6825. (a) No covered entity shall use or disclose protected health information except as follows:

(1) ~~Use and disclosure of protected health information~~ In a manner consistent with an authorization that satisfies the requirements of 45 C.F.R. § 164.508;

(2) ~~use and disclosure of protected health information without an authorization~~ in a manner as permitted under 45 C.F.R. §§ 164.502, 164.506, 164.508, 164.510 and 164.512; or

(3) ~~use and disclosure of protected health information~~ in a manner as required under 45 C.F.R. § 164.502.

(b) ~~Notwithstanding the provisions of subsection (a), no covered en-~~

entity shall disclose an individual's protected health information to a health information organization for any purpose without an authorization that satisfies the requirements of 45 C.F.R. § 164.508, unless A covered entity may disclose an individual's protected health information to a health information organization without an authorization if such covered entity:

(1) Is a party to a current participation agreement with an approved ~~HIO~~ health information organization at the time the disclosure is made;

(2) discloses the individual's protected health information to that approved ~~HIO~~ health information organization in a manner consistent with the approved ~~HIO's~~ established procedures of the approved health information organization; and

(3) ~~prior to the disclosure, has furnished~~ furnishes to the individual, or such individual's personal representative, whose information is to be disclosed to the approved ~~HIO~~ health information organization, the notice required under K.S.A. 2012 Supp. 65-6832, and amendments thereto; and

(4) ~~restricts disclosure to the approved HIO of any protected health information concerning the individual that is the subject of a written request delivered to the covered entity by the individual, or such individual's personal representative, for reasonable restrictions on disclosure of all or any specified categories of the individual's protected health information, as defined pursuant to K.S.A. 2012 Supp. 65-6832, and amendments thereto, following the covered entity's receipt of such written request.~~

(c) Notwithstanding the provisions of subsections (a) and (b), A covered entity that uses or discloses protected health information in compliance with this section shall be immune from any civil or criminal liability or any adverse administrative action arising out of or relating to such use or disclosure.

~~(d) This section shall take effect on and after July 1, 2011.~~

Sec. 13. K.S.A. 2012 Supp. 65-6828 is hereby amended to read as follows: 65-6828. To the extent any provision of state law regarding the confidentiality, privacy, security or privileged status of any protected health information conflicts with, *is contrary to, or more stringent than* the provisions of this act, the provisions of this act shall control, except that: (a) Nothing in this act shall limit or restrict the effect and application of the peer review statute, K.S.A. 65-4915, and amendments thereto; the risk management statute, K.S.A. 65-4921 *through* 65-4930, and amendments thereto; or any statutory health care provider-patient evidentiary privilege applicable to a judicial or administrative proceeding; and

(b) nothing in this act shall limit or restrict the ability of any state agency to require the disclosure of protected health information by any person or entity pursuant to law.

Sec. 14. K.S.A. 2012 Supp. 65-6829 is hereby amended to read as follows: 65-6829. ~~(a) A health care provider~~ covered entity may disclose protected health information without authorization to any state agency for any public health purpose that is required by law. Nothing in this act shall be construed to limit the use, transfer or disclosure of protected health information as required or permitted by any other provision of law for public health purposes.

~~(b) This section shall take effect on and after July 1, 2011.~~

Sec. 15. K.S.A. 2012 Supp. 65-6830 is hereby amended to read as follows: 65-6830. (a) The ~~corporation~~ department shall establish and revise, as appropriate, standards for the approval and operation of statewide and regional health information organizations operating in the state as approved ~~HIOs~~ health information organizations including, but not limited to, the following:

~~(a) Satisfaction of certification standards for health information exchanges promulgated by the federal government;~~

~~(b)(1)~~ Adherence to nationally recognized standards for interoperability, that is, the capacity of two or more information systems to share information or data in an accurate, effective, secure and consistent manner;

~~(c)(2)~~ adoption and adherence to rules promulgated by the ~~corporation~~ department regarding access to and use and disclosure of protected health information maintained by or on an approved ~~HIO~~ health information organization;

- ~~(d)~~(3) demonstration of adequate financial resources to sustain continued operations in compliance with the standards;
- ~~(e)~~(4) participation in outreach activities for individuals and covered entities;
- ~~(f)~~(5) conduct of operations in a transparent manner to promote consumer confidence;
- ~~(g)~~(6) implementation of security breach notification procedures; and
- ~~(h)~~(7) development of procedures for entering into and enforcing the terms of participation agreements with covered entities which satisfy the requirements established by the ~~corporation~~ department pursuant to K.S.A. 2012 Supp. 65-6832, and amendments thereto.

*(b) The department shall ensure that approved health information organizations operate within the state in a manner consistent with the protection of the security and privacy of health information of the citizens of Kansas.*

*(c) No expenditure shall be made from the state general fund for the purposes of administration, operation or oversight of the health information organizations defined in K.S.A. 65-6821, and amendments thereto, except that the secretary of health and environment may make operational expenditures for the purpose of adopting and administering the rules and regulations necessary to implement the Kansas health information technology act.*

~~This section shall take effect on and after July 1, 2011.~~

Sec. 16. K.S.A. 2012 Supp. 65-6831 is hereby amended to read as follows: 65-6831. ~~(a) The corporation~~ department shall establish and implement:

~~(1)~~(a) A process by which a health information ~~exchange~~ organization may apply for and receive ~~approval~~ a certificate of authority issued by the ~~corporation~~ department by demonstrating compliance with the standards promulgated by the ~~corporation~~ department pursuant to K.S.A. 2012 Supp. 65-6830, and amendments thereto;

~~(2)~~(b) a process by which an approved ~~HIO~~ health information organization shall be re-approved on appropriate intervals by demonstrating continued compliance with the standards promulgated by the ~~corporation~~ department pursuant to K.S.A. 2012 Supp. 65-6830, and amendments thereto; and

~~(3)~~(c) a process for the investigation of reported concerns and complaints regarding an approved ~~HIO~~ health information organization and imposition of appropriate remedial and proactive measures to address any identified deficiencies.

~~(b) This section shall take effect on and after July 1, 2011.~~

Sec. 17. K.S.A. 2012 Supp. 65-6832 is hereby amended to read as follows: 65-6832. ~~(a) The corporation~~ department shall establish requirements ~~for participation agreements to be used by approved health information organizations in participation agreements with covered entities~~ and shall include the following:

~~(1)~~(a) Specification of procedures ~~for the covered entity to disclose by which an individual's protected health information to the approved HIO will be disclosed by covered entities, will be collected by approved health information organizations and will be shared with other participating covered entities and with the department as required by law for public health purposes;~~

~~(2)~~(b) specification of procedures ~~for the covered entity to access an individual's protected health information from the approved HIO by which an individual may elect that protected health information be restricted from disclosure by approved health information organizations to covered entities;~~

~~(3)~~(c) specifications of purposes for, and procedures by which a covered entity can access an individual's protected health information from the approved health information organization, including access to restricted information by a covered entity in an emergency situation when necessary to properly treat the individual;

(d) specification of the written notice to be provided by the covered entity to any individual, or such individual's personal representative, ~~prior to the covered entity's disclosure of the individual's protected health information to the approved HIO that explains how and what protected health information will be shared with the approved health information~~

organization. Such written notice, which may be incorporated into the covered entity's notice of privacy practices required under the HIPAA privacy rule, shall include the following that:

~~(A)(1)~~ The individual's protected health information will be disclosed to the approved ~~HIO~~ health information organization to facilitate the provision of health care to the individual;

~~(B)(2)~~ the approved ~~HIO~~ health information organization maintains appropriate safeguards to protect the privacy and security of protected health information;

~~(C)(3)~~ only authorized individuals may access protected health information from the approved ~~HIO~~ health information organization;

~~(D)(4)~~ the individual, or such individual's personal representative, has the right to request in writing that the covered entity: (i) Not disclose any of the individual's protected health information to the approved HIO; or (ii) not disclose specified categories of the individual's protected health information to the approved HIO *the individual's protected health information not be disclosed by the health information organization;*

~~(E)(5)~~ such restrictions may result in a health care provider not having access to information necessary to provide appropriate care for the individual;

~~(F)~~ the covered entity is required to honor a written request delivered to the covered entity by an individual, or such individual's representative, not to disclose any of the individual's protected health information to an approved HIO; and

~~(G)~~ the covered entity is required to honor a written request delivered to the covered entity by an individual, or such individual's representative, for reasonable restrictions on the disclosure of specified categories of the individual's protected health information to an approved HIO: *the health information organization is required to honor a written request not to disclose an individual's protected health information, except that disclosure is permitted (A) in an emergency situation when necessary to properly treat the individual, or (B) when necessary to satisfy a covered entity's legal obligation to report certain information to a government official; and*

~~(6)~~ *the inability to access restricted information by a covered entity may result in a health care provider not having access to information necessary to provide appropriate care for the individual;*

~~(4)(e)~~ specification of documentation requirements to demonstrate delivery of such notice to an individual, or such individual's personal representative, by or on behalf of the covered entity ~~prior to the covered entity's disclosure of the individual's protected health information to the approved HIO;~~

~~(5)~~ standards for determining the reasonableness of an individual's written request, or the written request of such individual's personal representative, not to disclose specified categories of the individual's protected health information to the approved HIO based on the covered entity's technological capabilities; and

~~(6)~~ specification of the purposes for which a covered entity may access protected health information through the approved HIO.

~~(b)~~ This section shall take effect on and after July 1, 2011.

Sec. 18. K.S.A. 2012 Supp. 65-6833 is hereby amended to read as follows: 65-6833. ~~(a)~~ Any health information organization which is not an approved ~~HIO~~ health information organization shall not be eligible for any financial support from the state, or assistance or support from the state in securing any other source of funding.

~~(b)~~ This section shall take effect on and after July 1, 2011.

Sec. 19. K.S.A. 2012 Supp. 65-6834 is hereby amended to read as follows: 65-6834. (a) ~~Notwithstanding any other provision of this act,~~ No use or disclosure of protected health information maintained by or on an approved ~~HIO~~ health information organization shall be made except pursuant to rules and regulations adopted by the ~~corporation~~ department consistent with this act. An approved ~~HIO~~ health information organization that uses or discloses protected health information in compliance with such rules shall be immune from any civil or criminal liability or any adverse administrative action arising out of or relating to such use or disclosure.

~~(b)~~ This section shall take effect on and after July 1, 2011. *Protected*

*health information in the possession of an approved health information organization shall not be subject to discovery, subpoena or other means of legal compulsion for the release of such protected health information to any person or entity. An approved health information organization shall not be compelled by a request for production, subpoena, court order or otherwise, to disclose protected health information relating to an individual.*

New Sec. 20. (a) There is hereby established an advisory council on health information technology. The advisory council on health information technology shall be advisory to the secretary of health and environment and shall be within the division of health of the department of health and environment.

(b) The advisory council on health information technology shall be composed of 23 voting members, as follows:

(1) The secretary of the Kansas department of health and environment, or such secretary's designee;

(2) the governor of the state of Kansas, or such governor's designee;

(3) four legislators selected as follows: The chairperson and ranking minority member or their designees of the committee on health and human services of the house of representatives, and the chairperson and ranking minority member or their designees from the committee on public health and welfare of the senate;

(4) two members appointed by the secretary who represent consumers;

(5) one member appointed by the secretary who represents employers;

(6) one member appointed by the secretary who represents payers;

(7) one member appointed by the secretary who represents local health departments from a list of three names submitted by the Kansas association of local health departments;

(8) three members appointed by the secretary who represent hospitals, from a list of three names for each position submitted by the Kansas hospital association. One of the hospital representatives appointed herein shall be involved in the administration of a critical access hospital;

(9) three members appointed by the secretary from a list of three names for each position by the Kansas medical society. At least two of the members appointed herein shall be practicing physicians, and one of the physicians shall be a physician in a primary care specialty;

(10) two members appointed by the secretary who represent pharmacists, from a list of three names submitted by the Kansas pharmacists association. At least one of the members appointed herein shall be a practicing pharmacist;

(11) one member appointed by the secretary who represents the university of Kansas center for health information from a list of three names submitted by the university of Kansas center for health information;

(12) one member appointed by the secretary who represents the Kansas foundation for medical care from a list of three names submitted by the Kansas foundation for medical care;

(13) one member appointed by the secretary who represents the Kansas optometric association from a list of three names submitted by the Kansas optometric association; and

(14) one member appointed by the secretary who represents the association of community mental health centers of Kansas from a list of three names submitted by the association of community mental health centers of Kansas.

(c) At the first meeting of the council, following the effective date of this act, terms of its members, except the secretary and governor or their designees, shall be determined by lot with five members serving for one year, five members serving for two years, five members serving for three years, and six members serving for four years. Following their initial term, members of the council shall be eligible for re-appointment and, if re-appointed, shall serve for terms of four years. Members shall only be eligible to serve two consecutive four-year terms. Whenever a vacancy occurs regarding a member of the council due to the resignation, death, removal or expiration of a term, a new member shall be appointed prior to the next meeting, according to the process and to the specific position on the council as provided in subsection (b). In the event of a vacancy

during an unexpired term due to resignation, death or removal of a council member, the appointment shall be for the remainder of the unexpired portion of the term. Each member of the council shall hold office for the term of appointment and until a successor has been appointed. Any member of the council may be removed by the secretary for malfeasance or misfeasance in office, regularly failing to attend meetings, or for any cause which renders the member incapable of the discharge of the duties of a member.

(d) The council shall meet at least four times per year and at such times as the council deems appropriate or as called by the secretary.

(e) Members of the council are entitled to compensation and expenses as provided in K.S.A. 75-3223, and amendments thereto. Members of the council attending council meetings or subcommittee meetings authorized by the council shall be paid mileage and all other applicable expenses, provided such expenses are consistent with policies established from time-to-time by the council.

Sec. 21 K.S.A. 2012 Supp. 28-115 is hereby amended to read as follows: 28-115. (a) The register of deeds of each county shall charge and collect the following fees:

For recording deeds, mortgages or other instruments of writing, for first page, not to exceed legal size page—8½" x 14" .....	\$6.00
For second page and each additional page or fraction thereof ..	2.00
Recording town plats, for each page .....	20.00
Recording release or assignment of real estate mortgage .....	5.00
Certificate, certifying any instrument on record .....	1.00
Acknowledgment of a signature .....	.50
For filing notices of tax liens under the internal revenue laws of the United States .....	5.00
For filing releases of tax liens, certificates of discharge, under the internal revenue laws of the United States or the revenue laws of the state of Kansas .....	5.00
For filing liens for materials and services under K.S.A. 58-201, and amendments thereto .....	5.00

(b) In addition to the fees required to be charged and collected pursuant to subsection (a), the register of deeds shall charge and collect an additional fee of \$2 per page for recording:

- (1) The first page of any deeds, mortgages or other instruments of writing, not to exceed legal size—8½" x 14";
- (2) the second page and each additional page or fraction of any deeds, mortgages or instruments of writing; and
- (3) a release or assignment of real estate mortgage.

Any fees collected pursuant to this subsection shall be paid by the register of deeds to the county treasurer. The county treasurer shall deposit such funds in the register of deeds technology fund as provided by K.S.A. 2012 Supp. 28-115a, and amendments thereto.

(c) For any filing or service provided for in the uniform commercial code, the amount therein provided, shall be charged and collected. *No fee shall be charged or collected for any filing made by the secretary of health and environment or the secretary's designee pursuant to K.S.A. 39-709, and amendments thereto.*

(d) If the name or names of the signer or signers or any notary public to any instrument to be recorded are not plainly typed or printed under the signatures affixed to the instrument, the register of deeds shall charge and collect a fee of \$1 in addition to all other fees provided in this section.

(e) If sufficient space is not provided for the necessary recording information and certification on a document, such recording information shall be placed on an added sheet and such sheet shall be counted as a page. The document shall be of sufficient legibility so as to produce a clear and legible reproduction thereof. If a document is judged not to be of sufficient legibility so as to produce a clear and legible reproduction, such document shall be accompanied by an exact copy thereof which shall be of sufficient legibility so as to produce a clear and legible reproduction thereof and which shall be recorded contemporaneously with the document and shall be counted as additional pages. The register of deeds may reject any document which is not of sufficient legibility so as to produce a clear and legible reproduction thereof.

(f) Any document which was filed on or after January 1, 1989, which

was of a size print or type smaller than 8-point type but which otherwise was properly filed shall be deemed to be validly filed.

(g) All fees required to be collected pursuant to this section, except those charged for the filing of liens and releases of tax liens under the internal revenue laws of the United States, shall be due and payable before the register of deeds shall be required to do the work. If the register of deeds fails to collect any of the fees provided in this section, the amount of the fees at the end of each quarter shall be deducted from the register's salary.

(h) Except as otherwise provided by subsection (b), all fees required to be collected pursuant to this section shall be paid by the register of deeds to the county treasurer and deposited into the general fund of the county.

Sec. 22. K.S.A. 39-702 is hereby amended to read as follows: 39-702. The following words and phrases when used in this act shall, for the purposes of this act, have the meanings respectively ascribed to them in this section:

(a) ~~“Secretary” means the secretary of social and rehabilitation services for children and families, unless otherwise specified.~~

(b) “Applicants” means all persons who, as individuals, or in whose behalf requests are made of the secretary for aid or assistance.

(c) “Social welfare service” may include such functions as giving assistance, the prevention of public dependency, and promoting the rehabilitation of dependent persons or those who are approaching public dependency.

(d) “Assistance” includes such items or functions as the giving or providing of money, food stamps or coupons, food, clothing, shelter, medicine or other materials, the giving of any service, including instructive or scientific, and the providing of institutional care, which may be necessary or helpful to the recipient in providing the necessities of life for the recipient and the recipient's dependents. The definitions of social welfare service and assistance in this section shall be deemed as partially descriptive and not limiting.

(e) “Aid to families with dependent children” means financial assistance with respect to or on behalf of a dependent child or dependent children and includes financial assistance for any month to meet the needs of the relative with whom any dependent child is living.

(f) “Medical assistance” means the payment of all or part of the cost of necessary: (1) Medical, remedial, rehabilitative or preventive care and services which are within the scope of services to be provided under a medical care plan developed by the secretary pursuant to this act and furnished by health care providers who have a current approved provider agreement with the secretary; and (2) transportation to obtain care and services which are within the scope of services to be provided under a medical care plan developed by the secretary pursuant to this act.

(g) “Dependent children” means needy children under the age of 18, or who are under the age of 19 and are full-time students in secondary schools or the equivalent educational program or are full-time students in a program of vocational or technical training if they may be reasonably expected to complete the training before attaining age 19, who have been deprived of parental or guardian support or care by reasons of the death, continued absence from the home, or physical or mental incapacity of a parent or guardian, and who are living with any blood relative, including those of the half-blood, and including first cousins, uncles, aunts, and persons of preceding generations are denoted by prefixes of grand, great, or great-great, and including the spouses or former spouses of any persons named in the above groups, in a place of residence maintained by one or more of such relatives as their own home. The secretary may adopt rules and regulations which extend the deprivation requirement under this definition to include being deprived of parental or guardian support or care by reason of the unemployment of a parent or guardian. The term “dependent children” also includes children who would meet the foregoing requirements except for their removal from the home of a relative as a result of judicial determination to the effect that continuation therein would be contrary to the welfare of such children, for whose placement and care the secretary is responsible, who have been placed in a foster family home or child care institution as a result of such determination

and who received aid to dependent children in or for the month in which court proceedings leading to such determination were initiated, or would have received such aid in or for such month if application had been made therefor, or in the case of a child who had been living with a relative specified above within six months prior to the month in which such proceedings were initiated, would have received such aid in or for such month if in such month such child had been living with and removed from the home of such a relative and application had been made therefor.

(h) “The blind” means not only those who are totally and permanently devoid of vision, but also those persons whose vision is so defective as to prevent the performance of ordinary activities for which eyesight is essential.

(i) “General assistance” means financial assistance in which the cost of such financial assistance is not participated in by the federal government. General assistance may be limited to transitional assistance in some instances as specified by rules and regulations adopted by the secretary.

(j) “Recipient” means a person who has received assistance under the terms of this act.

(k) “Intake office” means the place where the secretary shall maintain an office for receiving applications.

(l) “Adequate consideration” means consideration equal, or reasonably proportioned to the value of that for which it is given.

(m) “Transitional assistance” means a form of general assistance in which as little financial assistance as one payment may be made during each period of 12 consecutive calendar months to an eligible and needy person and all other persons for whom such person is legally responsible.

(n) “Title IV-D” means part D of title IV of the federal social security act (42 U.S.C. § 651; et seq.), ~~or acts amendatory thereof or supplemental thereto~~ as in effect on May 1, 1997.

Sec. 23. K.S.A. 2012 Supp. 39-709 is hereby amended to read as follows: 39-709. (a) *General eligibility requirements for assistance for which federal moneys are expended.* Subject to the additional requirements below, assistance in accordance with plans under which federal moneys are expended may be granted to any needy person who:

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

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

(b) *Assistance to families with dependent children.* Assistance may be granted under this act to any dependent child, or relative, subject to the general eligibility requirements as set out in subsection (a), who resides in the state of Kansas or whose parent or other relative with whom the child is living resides in the state of Kansas. Such assistance shall be known as aid to families with dependent children. Where husband and wife are living together both shall register for work under the program requirements for aid to families with dependent children in accordance with criteria and guidelines prescribed by rules and regulations of the secretary.

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

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

(A) To qualify for general assistance in any form a needy person must have insufficient income or resources to provide a reasonable subsistence compatible with decency and health and, except as provided for transitional assistance, be a member of a family in which a minor child or a pregnant woman resides or be unable to engage in employment. The secretary shall adopt rules and regulations prescribing criteria for establishing when a minor child may be considered to be living with a family and whether a person is able to engage in employment, including such factors as age or physical or mental condition. Eligibility for general assistance, other than transitional assistance, is limited to families in which a minor child or a pregnant woman resides or to an adult or family in which all legally responsible family members are unable to engage in employment. Where a husband and wife are living together the combined income or resources of both shall be considered in determining the eligibility of either or both for such assistance unless otherwise prohibited by law. The secretary in determining need of any applicant for or recipient of general assistance shall not take into account the financial responsibility of any individual for any applicant or recipient of general assistance unless such applicant or recipient is such individual's spouse or such individual's minor child or a minor stepchild if the stepchild is living with such individual. In determining the need of an individual, the secretary may provide for income and resource exemptions.

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

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

(3) In addition to the other requirements prescribed under this sub-

section (d), the secretary shall adopt rules and regulations which establish community work experience program requirements for eligibility for the receipt of general assistance in any form and which establish penalties to be imposed when a work assignment under a community work experience program requirement is not completed without good cause. The secretary may adopt rules and regulations establishing exemptions from any such community work experience program requirements. A first time failure to complete such a work assignment requirement shall result in ineligibility to receive general assistance for a period fixed by such rules and regulations of not more than three calendar months. A subsequent failure to complete such a work assignment requirement shall result in a period fixed by such rules and regulations of ineligibility of not more than six calendar months.

(4) If any person is found guilty of the crime of theft under the provisions of K.S.A. 39-720, and amendments thereto, such person shall thereby become forever ineligible to receive any form of general assistance under the provisions of this subsection (d) unless the conviction is the person's first conviction under the provisions of K.S.A. 39-720, and amendments thereto, or the law of any other state concerning welfare fraud. First time offenders convicted of a misdemeanor under the provisions of such statute shall become ineligible to receive any form of general assistance for a period of 12 calendar months from the date of conviction. First time offenders convicted of a felony under the provisions of such statute shall become ineligible to receive any form of general assistance for a period of 60 calendar months from the date of conviction. If any person is found guilty by a court of competent jurisdiction of any state other than the state of Kansas of a crime involving welfare fraud, such person shall thereby become forever ineligible to receive any form of general assistance under the provisions of this subsection (d) unless the conviction is the person's first conviction under the law of any other state concerning welfare fraud. First time offenders convicted of a misdemeanor under the law of any other state concerning welfare fraud shall become ineligible to receive any form of general assistance for a period of 12 calendar months from the date of conviction. First time offenders convicted of a felony under the law of any other state concerning welfare fraud shall become ineligible to receive any form of general assistance for a period of 60 calendar months from the date of conviction.

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

(2) For the purposes of medical assistance eligibility determinations on or after July 1, 2004, if an applicant or recipient owns property in joint tenancy with some other party and the applicant or recipient of medical assistance has restricted or conditioned their interest in such property to a specific and discrete property interest less than 100%, then such designation will cause the full value of the property to be considered an available resource to the applicant or recipient.

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

(B) If a trust has discretionary language, the trust shall be considered to be an available resource to the extent, using the full extent of discretion, the trustee may make any of the income or principal available to the applicant or recipient of medical assistance. Any such discretionary trust

shall be considered an available resource unless: (i) At the time of creation or amendment of the trust, the trust states a clear intent that the trust is supplemental to public assistance; and (ii) the trust: (a) Is funded from resources of a person who, at the time of such funding, owed no duty of support to the applicant or recipient of medical assistance; or (b) is funded not more than nominally from resources of a person while that person owed a duty of support to the applicant or recipient of medical assistance.

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

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

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

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

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

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

(1) Except as otherwise provided in K.S.A. 39-786 and 39-787, and amendments thereto, or as otherwise authorized on and after September 30, 1989, under section 303, ~~and amendments thereto,~~ of the federal medicare catastrophic coverage act of 1988, whichever is applicable, by applying for or receiving medical assistance under a medical care plan in which federal funds are expended, any accrued, present or future rights to support and any rights to payment for medical care from a third party of an applicant or recipient and any other family member for whom the applicant is applying shall be deemed to have been assigned to the secretary on behalf of the state. The assignment shall automatically become

effective upon the date of approval for such assistance without the requirement that any document be signed by the applicant or recipient. By applying for or receiving medical assistance the applicant or recipient is also deemed to have appointed the secretary, or the secretary's designee, as an attorney in fact to perform the specific act of negotiating and endorsing all drafts, checks, money orders or other negotiable instruments, representing payments received by the secretary in behalf of any person applying for, receiving or having received such assistance. This limited power of attorney shall be effective from the date the secretary approves the application for assistance and shall remain in effect until the assignment has been terminated in full. The assignment of any rights to payment for medical care from a third party under this subsection shall not prohibit a health care provider from directly billing an insurance carrier for services rendered if the provider has not submitted a claim covering such services to the secretary for payment. Support amounts collected on behalf of persons whose rights to support are assigned to the secretary only under this subsection and no other shall be distributed pursuant to subsection (d) of K.S.A. 39-756, and amendments thereto, except that any amounts designated as medical support shall be retained by the secretary for repayment of the unreimbursed portion of assistance. Amounts collected pursuant to the assignment of rights to payment for medical care from a third party shall also be retained by the secretary for repayment of the unreimbursed portion of assistance.

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

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

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

(B) if an individual receives any medical assistance on or after July 1, 2004, pursuant to article 7 of chapter 39 of the Kansas Statutes Annotated, *and amendments thereto*, which forms the basis for a claim under subsection (g)(2), such claim shall apply to the individual's medical assistance estate. The medical assistance estate is defined as including all real and

personal property and other assets in which the deceased individual had any legal title or interest immediately before or at the time of death to the extent of that interest or title. The medical assistance estate includes, without limitation assets conveyed to a survivor, heir or assign of the deceased recipient through joint tenancy, tenancy in common, survivorship, transfer-on-death deed, payable-on-death contract, life estate, trust, annuities or similar arrangement.

(4) ~~The secretary of social and rehabilitation services of health and environment or the secretary's designee is authorized to file and enforce a lien against the real property of a recipient of medical assistance in certain situations, subject to all prior liens of record and transfers for value to a bona fide purchaser of record. The lien must be filed in the office of the register of deeds of the county where the real property is located within one year from the date of death of the recipient and must contain the legal description of all real property in the county subject to the lien. This lien is for payments of medical assistance made by the department of social and rehabilitation services to the recipient who is an inpatient in a nursing home or other medical institution.~~

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

(B) *The secretary of health and environment or the secretary's designee may place a lien on any interest in real property owned by a recipient of medical assistance during the lifetime of such recipient. Such lien may be filed only after notice and an opportunity for a hearing has been given. Such lien may be enforced only upon competent medical testimony that the recipient cannot reasonably be expected to be discharged and returned home. A six-month period of compensated inpatient care at a nursing home, ~~nursing homes~~ or other medical institution shall constitute a determination by the ~~department of social and rehabilitation services~~ department of health and environment that the recipient cannot reasonably be expected to be discharged and returned home. To return home means the recipient leaves the nursing or medical facility and resides in the home on which the lien has been placed for a continuous period of at least 90 days without being readmitted as an inpatient to a nursing or medical facility. The amount of the lien shall be for the amount of assistance paid by the ~~department of social and rehabilitation services~~ after the expiration of six months from the date the recipient became eligible for compensated inpatient care at a nursing home, ~~nursing homes~~ or other medical institution department of health and environment until the time of the filing of the lien and for any amount paid thereafter for such medical assistance to the recipient. After the lien is filed against any real property owned by the recipient, such lien will be dissolved if the recipient is discharged, returns home and resides upon the real property to which the lien is attached for a continuous period of at least 90 days without being readmitted as an inpatient to a nursing or medical facility. If the recipient is readmitted as an inpatient to a nursing or medical facility for a continuous period of less than 90 days, another continuous period of at least 90 days shall be completed prior to dissolution of the lien.*

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

- (A) After the death of the surviving spouse of the recipient;
- (B) when there is no child of the recipient, natural or adopted, who is 20 years of age or less residing in the home;
- (C) when there is no adult child of the recipient, natural or adopted, who is blind or disabled residing in the home; or
- (D) when no brother or sister of the recipient is lawfully residing in the home, who has resided there for at least one year immediately before the date of the recipient's admission to the nursing or medical facility, and has resided there on a continuous basis since that time.

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

- (A) The lien is satisfied. The recipient, the heirs, personal represen-

tative or assigns of the recipient may discharge such lien at any time by paying the amount of the lien to the secretary or the secretary's designee;

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

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

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

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

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

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

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

(j) If the applicant or recipient of aid to families with dependent children is a mother of the dependent child, as a condition of the mother's eligibility for aid to families with dependent children the mother shall identify by name and, if known, by current address the father of the dependent child except that the secretary may adopt by rules and regulations exceptions to this requirement in cases of undue hardship. Any

recipient of aid to families with dependent children who fails to cooperate with requirements relating to child support enforcement under criteria and guidelines prescribed by rules and regulations of the secretary shall be subject to a penalty established by the secretary by rules and regulations which penalty shall progress to ineligibility for the family after three months of noncooperation.

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

Sec. 24. K.S.A. 58-3957 is hereby amended to read as follows: 58-3957. (a) (1) A person, excluding another state, claiming an interest in any property paid or delivered to the administrator may file with the administrator a claim on a form prescribed by the administrator and verified by the claimant.

(2) *The department of health and environment may claim an interest in any property paid or delivered to the administrator if the deceased owner of such property received medical assistance under K.S.A. 39-709, and amendments thereto, except that such claim shall not exceed the amount of medical assistance received by the deceased owner.*

(3) The administrator may hold a hearing on the claim in accordance with the provisions of the Kansas administrative procedure act. The decision resulting from any hearing shall be a public record.

(b) The administrator shall consider each claim within 90 days after it is filed and give written notice to the claimant if the claim is denied in whole or in part. The notice may be given by mailing it to the last address, if any, stated in the claim as the address to which notices are to be sent. If no address for notices is stated in the claim, the notice may be mailed to the last address, if any, of the claimant as stated in the claim. No notice of denial need be given if the claim fails to state either the last address to which notices are to be sent or the address of the claimant.

(c) If a claim is allowed, the administrator shall pay over or deliver to the claimant the property or the amount the administrator actually received or the net proceeds if it has been sold by the administrator, together with any additional amount required by K.S.A. 58-3954, and amendments thereto. Interest reported under the previous disposition of unclaimed property act shall not be computed, paid or delivered to the claimant after enactment of this act. If the claim is for property presumed abandoned under K.S.A. 58-3943, and amendments thereto, which was sold by the administrator within three years after the date of delivery, the amount payable for that claim is the value of the property at the time the claim was made or the net proceeds of sale, whichever is greater.

(d) Any holder who pays the owner for property that has been delivered to the state and which, if claimed from the administrator, would be subject to subsection (c) shall add any additional amount as provided in K.S.A. 58-3954, and amendments thereto. The additional amount shall be repaid to the holder by the administrator in the same manner as the principal.

Sec. 25. K.S.A. 39-702, 58-3957, 65-116a, 65-128, 65-157, 65-1,109a,

75-5607 and 75-5608 and K.S.A. 2012 Supp. 28-115, 39-709, 65-129a, 65-6821, 65-6822, 65-6823, 65-6824, 65-6825, 65-6826, 65-6827, 65-6828, 65-6829, 65-6830, 65-6831, 65-6832, 65-6833 and 65-6834 are hereby repealed.

Sec. 26. This act shall take effect and be in force from and after its publication in the statute book.

I hereby certify that the above BILL originated in the HOUSE, and was adopted by that body

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HOUSE adopted  
Conference Committee Report \_\_\_\_\_

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*Speaker of the House.*

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*Chief Clerk of the House.*

Passed the SENATE  
as amended \_\_\_\_\_

SENATE adopted  
Conference Committee Report \_\_\_\_\_

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*President of the Senate.*

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*Secretary of the Senate.*

APPROVED \_\_\_\_\_

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*Governor.*