

## HOUSE BILL No. 2589

By Representative Waymaster

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1 AN ACT concerning public assistance; relating to school attendance  
2 requirements for eligibility; amending K.S.A. 2015 Supp. 39-709 and  
3 72-1111 and repealing the existing sections.  
4

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

6 Section 1. K.S.A. 2015 Supp. 39-709 is hereby amended to read as  
7 follows: 39-709. (a) *General eligibility requirements for assistance for*  
8 *which federal moneys are expended.* Subject to the additional requirements  
9 below, assistance in accordance with plans under which federal moneys  
10 are expended may be granted to any needy person who:

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

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

3 (b) *Temporary assistance for needy families.* Assistance may be  
4 granted under this act to any dependent child, or relative, subject to the  
5 general eligibility requirements as set out in subsection (a), who resides in  
6 the state of Kansas or whose parent or other relative with whom the child  
7 is living resides in the state of Kansas. Such assistance shall be known as  
8 temporary assistance for needy families. On and after January 1, 2017, the  
9 department shall conduct an electronic check for any false information  
10 provided on an application for TANF and other benefits programs  
11 administered by the department. Where the husband and wife or  
12 cohabiting partners are living together, both shall register for work under  
13 the program requirements for temporary assistance for needy families in  
14 accordance with criteria and guidelines prescribed by rules and regulations  
15 of the secretary.

16 (1) As used in this subsection, "family group" or "household" means  
17 the applicant or recipient for TANF, child care subsidy or employment  
18 services and all individuals living together in which there is a relationship  
19 of legal responsibility or a qualifying caretaker relationship. This will  
20 include a cohabiting boyfriend or girlfriend living with the person legally  
21 responsible for the child. The family group shall not be eligible for TANF  
22 if the family group contains at least one adult member who has received  
23 TANF, including the federal TANF assistance received in any other state,  
24 for 36 calendar months beginning on and after October 1, 1996, unless the  
25 secretary determines a hardship exists and grants an extension allowing  
26 receipt of TANF until the 48-month limit is reached. No extension beyond  
27 48 months shall be granted. Hardship provisions for a recipient include:

28 (A) Is a caretaker of a disabled family member living in the  
29 household;

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

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

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

36 (E) is determined by the 36<sup>th</sup> month to have an extreme hardship other  
37 than what is designated in criteria listed in subparagraphs (A) through (E).  
38 This determination will be made by the executive review team.

39 (2) All adults applying for TANF shall be required to complete a  
40 work program assessment as specified by the Kansas department for  
41 children and families, including those who have been disqualified for or  
42 denied TANF due to non-cooperation, drug testing requirements or fraud.  
43 Adults who are not otherwise eligible for TANF, such as ineligible aliens,

1 relative/non-relative caretakers and adults receiving supplemental security  
2 income are not required to complete the assessment process. During the  
3 application processing period, applicants must complete at least one  
4 module or its equivalent of the work program assessment to be considered  
5 eligible for TANF benefits, unless good cause is found to be exempt from  
6 the requirements. Good cause exemptions shall only include:

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

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

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

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

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

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

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

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

1 include: Job skills training, education directly related to employment such  
2 as adult basic education and English as a second language, and completion  
3 of a high school diploma or GED.

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

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

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

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

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

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

29 (6) TANF work experience placements shall be reviewed after 90  
30 days and are limited to six months per 48-month lifetime limit. A client's  
31 progress shall be reviewed prior to each new placement regardless of the  
32 length of time they are at the work experience site.

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

41 (8) Non-cooperation is the failure of the applicant or recipient to  
42 comply with all requirements provided in state and federal law, federal and  
43 state rules and regulations and agency policy. The period of ineligibility

1 for TANF benefits based on non-cooperation with work programs shall be  
2 as follows:

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

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

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

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

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

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

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

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

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

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

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

33 (12) Any individual who is found to have committed fraud or is  
34 found guilty of the crime of theft pursuant to K.S.A. 39-720 and K.S.A.  
35 2015 Supp. 21-5801, and amendments thereto, in either the TANF or child  
36 care program shall render all adults in the family unit ineligible for TANF  
37 assistance. Adults in the household who were determined to have  
38 committed fraud or were convicted of the crime of theft pursuant to K.S.A.  
39 39-720 and K.S.A. 2015 Supp. 21-5801, and amendments thereto, shall  
40 render themselves and all adult household members ineligible for their  
41 lifetime for TANF, even if fraud was committed in only one program.  
42 Households who have been determined to have committed fraud or were  
43 convicted of the crime of theft pursuant to K.S.A. 39-720 and K.S.A. 2015

1 Supp. 21-5801, and amendments thereto, shall be required to name a  
2 protective payee as approved by the secretary or the secretary's designee to  
3 administer TANF benefits or food assistance on behalf of the children. No  
4 adult in a household may have access to the TANF cash assistance benefit.

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

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

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

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

28 (14) No TANF cash assistance shall be used to purchase alcohol,  
29 cigarettes, tobacco products, lottery tickets, concert tickets, professional or  
30 collegiate sporting event tickets or tickets for other entertainment events  
31 intended for the general public or sexually oriented adult materials. No  
32 TANF cash assistance shall be used in any retail liquor store, casino,  
33 gaming establishment, jewelry store, tattoo parlor, massage parlor, body  
34 piercing parlor, spa, nail salon, lingerie shop, tobacco paraphernalia store,  
35 vapor cigarette store, psychic or fortune telling business, bail bond  
36 company, video arcade, movie theater, swimming pool, cruise ship, theme  
37 park, dog or horse racing facility, parimutuel facility, or sexually oriented  
38 business or any retail establishment which provides adult-oriented  
39 entertainment in which performers disrobe or perform in an unclothed  
40 state for entertainment, or in any business or retail establishment where  
41 minors under age 18 are not permitted. TANF cash assistance transactions  
42 for cash withdrawals from automated teller machines shall be limited to  
43 \$25, per transaction and to one transaction per day. No TANF cash

1 assistance shall be used for purchases at points of sale outside the state of  
2 Kansas. The secretary for children and families is authorized to raise or  
3 rescind the automated teller machine withdrawal limit established by this  
4 section in order to ensure continued appropriation of the TANF block grant  
5 through compliance with the provisions of the middle class tax relief and  
6 job creation act of 2012 which govern adequate access to cash assistance.

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

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

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

23 (16) The secretary for children and families shall adopt rules and  
24 regulations:

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

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

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

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

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

40 (iv) adults who are participants in a mandatory food assistance  
41 education and training program.

42 The department for children and families shall provide child care for  
43 the pursuit of any degree or certification if the occupation has at least an

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

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

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

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

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



1 assistance.

2 (21) (A) The secretary for children and families shall not apply gross  
3 income standards for food assistance higher than the standards specified in  
4 7 U.S.C. § 2015(c) unless expressly required by federal law. Categorical  
5 eligibility exempting households from such gross income standards  
6 requirements shall not be granted for any non-cash, in-kind or other  
7 benefit unless expressly required by federal law.

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

14 (22) (A) *Any person who, with parental consent, has become exempt*  
15 *from compulsory school attendance pursuant to K.S.A. 72-1111(a) or (b)*  
16 *(2), and amendments thereto, shall be ineligible for TANF cash assistance*  
17 *and food assistance benefits. Such ineligibility shall not affect the*  
18 *eligibility of any other assistance household member.*

19 (B) *The Kansas state department of education shall provide to the*  
20 *Kansas department for children and families the identity of any student*  
21 *who, with parental consent, has become exempt from compulsory school*  
22 *attendance pursuant to K.S.A. 72-1111(a) or (b)(2), and amendments*  
23 *thereto. The Kansas state department of education and the Kansas*  
24 *department for children and families shall execute a data-sharing*  
25 *agreement pursuant to K.S.A. 2015 Supp. 72-6217(c), and amendments*  
26 *thereto, governing the use of such data consistent with the provisions of*  
27 *this paragraph.*

28 (C) *The Kansas department for children and families shall use data*  
29 *received under this paragraph solely, and for no other purpose, to*  
30 *determine a person's eligibility for TANF cash assistance or food*  
31 *assistance benefits. The Kansas department for children and families shall*  
32 *not disclose or otherwise disseminate any data received under this*  
33 *paragraph. The Kansas department for children and families shall destroy*  
34 *any data received under this paragraph pursuant to K.S.A. 2015 Supp. 72-*  
35 *6217, and amendments thereto, when such data is no longer necessary for*  
36 *a TANF cash assistance or food assistance benefits eligibility*  
37 *determination.*

38 (c) *Temporary assistance for needy families; assignment of support*  
39 *rights and limited power of attorney.* By applying for or receiving  
40 temporary assistance for needy families such applicant or recipient shall be  
41 deemed to have assigned to the secretary on behalf of the state any  
42 accrued, present or future rights to support from any other person such  
43 applicant may have in such person's own behalf or in behalf of any other

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

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

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

1 assistance has restricted or conditioned their interest in such property to a  
2 specific and discrete property interest less than 100%, then such  
3 designation will cause the full value of the property to be considered an  
4 available resource to the applicant or recipient. Medical assistance  
5 eligibility for receipt of benefits under the title XIX of the social security  
6 act, commonly known as medicaid, shall not be expanded, as provided for  
7 in the patient protection and affordable care act, public law 111-148, 124  
8 stat. 119, and the health care and education reconciliation act of 2010,  
9 public law 111-152, 124 stat. 1029, unless the legislature expressly  
10 consents to, and approves of, the expansion of medicaid services by an act  
11 of the legislature.

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

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

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

30 (4) (A) When an applicant or recipient of medical assistance is a party  
31 to a contract, agreement or accord for personal services being provided by  
32 a nonlicensed individual or provider and such contract, agreement or  
33 accord involves health and welfare monitoring, pharmacy assistance, case  
34 management, communication with medical, health or other professionals,  
35 or other activities related to home health care, long term care, medical  
36 assistance benefits, or other related issues, any moneys paid under such  
37 contract, agreement or accord shall be considered to be an available  
38 resource unless the following restrictions are met: (i) The contract,  
39 agreement or accord must be in writing and executed prior to any services  
40 being provided; (ii) the moneys paid are in direct relationship with the fair  
41 market value of such services being provided by similarly situated and  
42 trained nonlicensed individuals; (iii) if no similarly situated nonlicensed  
43 individuals or situations can be found, the value of services will be based

1 on federal hourly minimum wage standards; (iv) such individual providing  
2 the services will report all receipts of moneys as income to the appropriate  
3 state and federal governmental revenue agencies; (v) any amounts due  
4 under such contract, agreement or accord shall be paid after the services  
5 are rendered; (vi) the applicant or recipient shall have the power to revoke  
6 the contract, agreement or accord; and (vii) upon the death of the applicant  
7 or recipient, the contract, agreement or accord ceases.

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

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

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

33 (f) *Medical assistance; assignment of rights to medical support and*  
34 *limited power of attorney; recovery from estates of deceased recipients.* (1)

35 (A) Except as otherwise provided in K.S.A. 39-786 and 39-787, and  
36 amendments thereto, or as otherwise authorized on and after September  
37 30, 1989, under section 303 of the federal medicare catastrophic coverage  
38 act of 1988, whichever is applicable, by applying for or receiving medical  
39 assistance under a medical care plan in which federal funds are expended,  
40 any accrued, present or future rights to support and any rights to payment  
41 for medical care from a third party of an applicant or recipient and any  
42 other family member for whom the applicant is applying shall be deemed  
43 to have been assigned to the secretary on behalf of the state. The

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

24 (B) Notwithstanding the provisions of subparagraph (A), the  
25 secretary of health and environment, or the secretary's designee, is hereby  
26 authorized to and shall exercise any of the powers specified in  
27 subparagraph (A) in relation to performance of such secretary's duties  
28 pertaining to medical subrogation, estate recovery or any other duties  
29 assigned to such secretary in article 74 of chapter 75 of the Kansas Statutes  
30 Annotated, and amendments thereto.

31 (2) The amount of any medical assistance paid after June 30, 1992,  
32 under the provisions of subsection (d) is: (A) A claim against the property  
33 or any interest therein belonging to and a part of the estate of any deceased  
34 recipient or, if there is no estate, the estate of the surviving spouse, if any,  
35 shall be charged for such medical assistance paid to either or both; and (B)  
36 a claim against any funds of such recipient or spouse in any account under  
37 K.S.A. 9-1215, 17-2263, 17-2264, 17-5828 or 17-5829, and amendments  
38 thereto. There shall be no recovery of medical assistance correctly paid to  
39 or on behalf of an individual under subsection (d) except after the death of  
40 the surviving spouse of the individual, if any, and only at a time when the  
41 individual has no surviving child who is under 21 years of age or is blind  
42 or permanently and totally disabled. Transfers of real or personal property  
43 by recipients of medical assistance without adequate consideration are

1 voidable and may be set aside. Except where there is a surviving spouse,  
2 or a surviving child who is under 21 years of age or is blind or  
3 permanently and totally disabled, the amount of any medical assistance  
4 paid under subsection (d) is a claim against the estate in any guardianship  
5 or conservatorship proceeding. The monetary value of any benefits  
6 received by the recipient of such medical assistance under long-term care  
7 insurance, as defined by K.S.A. 40-2227, and amendments thereto, shall  
8 be a credit against the amount of the claim provided for such medical  
9 assistance under this subsection. The secretary of health and environment  
10 is authorized to enforce each claim provided for under this subsection. The  
11 secretary of health and environment shall not be required to pursue every  
12 claim, but is granted discretion to determine which claims to pursue. All  
13 moneys received by the secretary of health and environment from claims  
14 under this subsection shall be deposited in the social welfare fund. The  
15 secretary of health and environment may adopt rules and regulations for  
16 the implementation and administration of the medical assistance recovery  
17 program under this subsection.

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

24 (A) If an individual receives any medical assistance before July 1,  
25 2004, pursuant to article 7 of chapter 39 of the Kansas Statutes Annotated,  
26 and amendments thereto, which forms the basis for a claim under  
27 paragraph (2), such claim is limited to the individual's probatable estate as  
28 defined by applicable law; and

29 (B) if an individual receives any medical assistance on or after July 1,  
30 2004, pursuant to article 7 of chapter 39 of the Kansas Statutes Annotated,  
31 and amendments thereto, which forms the basis for a claim under  
32 paragraph (2), such claim shall apply to the individual's medical assistance  
33 estate. The medical assistance estate is defined as including all real and  
34 personal property and other assets in which the deceased individual had  
35 any legal title or interest immediately before or at the time of death to the  
36 extent of that interest or title. The medical assistance estate includes,  
37 without limitation assets conveyed to a survivor, heir or assign of the  
38 deceased recipient through joint tenancy, tenancy in common,  
39 survivorship, transfer-on-death deed, payable-on-death contract, life estate,  
40 trust, annuities or similar arrangement.

41 (4) The secretary of health and environment or the secretary's  
42 designee is authorized to file and enforce a lien against the real property of  
43 a recipient of medical assistance in certain situations, subject to all prior

1 liens of record and transfers for value to a bona fide purchaser of record.  
2 The lien must be filed in the office of the register of deeds of the county  
3 where the real property is located within one year from the date of death of  
4 the recipient and must contain the legal description of all real property in  
5 the county subject to the lien.

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

9 (B) The secretary of health and environment or the secretary's  
10 designee may place a lien on any interest in real property owned by a  
11 recipient of medical assistance during the lifetime of such recipient. Such  
12 lien may be filed only after notice and an opportunity for a hearing has  
13 been given. Such lien may be enforced only upon competent medical  
14 testimony that the recipient cannot reasonably be expected to be  
15 discharged and returned home. A six-month period of compensated  
16 inpatient care at a nursing home or other medical institution shall  
17 constitute a determination by the department of health and environment  
18 that the recipient cannot reasonably be expected to be discharged and  
19 returned home. To return home means the recipient leaves the nursing or  
20 medical facility and resides in the home on which the lien has been placed  
21 for a continuous period of at least 90 days without being readmitted as an  
22 inpatient to a nursing or medical facility. The amount of the lien shall be  
23 for the amount of assistance paid by the department of health and  
24 environment until the time of the filing of the lien and for any amount paid  
25 thereafter for such medical assistance to the recipient. After the lien is filed  
26 against any real property owned by the recipient, such lien will be  
27 dissolved if the recipient is discharged, returns home and resides upon the  
28 real property to which the lien is attached for a continuous period of at  
29 least 90 days without being readmitted as an inpatient to a nursing or  
30 medical facility. If the recipient is readmitted as an inpatient to a nursing  
31 or medical facility for a continuous period of less than 90 days, another  
32 continuous period of at least 90 days shall be completed prior to  
33 dissolution of the lien.

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

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

41 (B) when there is no child of the recipient, natural or adopted, who is  
42 20 years of age or less residing in the home;

43 (C) when there is no adult child of the recipient, natural or adopted,

1 who is blind or disabled residing in the home; or

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

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

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

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

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

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

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

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

37 (g) *Placement under the revised Kansas code for care of children or*  
38 *revised Kansas juvenile justice code; assignment of support rights and*  
39 *limited power of attorney.* In any case in which the secretary for children  
40 and families pays for the expenses of care and custody of a child pursuant  
41 to K.S.A. 2015 Supp. 38-2201 et seq. or 38-2301 et seq., and amendments  
42 thereto, including the expenses of any foster care placement, an  
43 assignment of all past, present and future support rights of the child in



1 custody possessed by either parent or other person entitled to receive  
2 support payments for the child is, by operation of law, conveyed to the  
3 secretary. Such assignment shall become effective upon placement of a  
4 child in the custody of the secretary or upon payment of the expenses of  
5 care and custody of a child by the secretary without the requirement that  
6 any document be signed by the parent or other person entitled to receive  
7 support payments for the child. When the secretary pays for the expenses  
8 of care and custody of a child or a child is placed in the custody of the  
9 secretary, the parent or other person entitled to receive support payments  
10 for the child is also deemed to have appointed the secretary, or the  
11 secretary's designee, as attorney in fact to perform the specific act of  
12 negotiating and endorsing all drafts, checks, money orders or other  
13 negotiable instruments representing support payments received by the  
14 secretary on behalf of the child. This limited power of attorney shall be  
15 effective from the date the assignment to support rights becomes effective  
16 and shall remain in effect until the assignment of support rights has been  
17 terminated in full.

18 (h) No person who voluntarily quits employment or who is fired from  
19 employment due to gross misconduct as defined by rules and regulations  
20 of the secretary or who is a fugitive from justice by reason of a felony  
21 conviction or charge or violation of a condition of probation or parole  
22 imposed under federal or state law shall be eligible to receive public  
23 assistance benefits in this state. Any recipient of public assistance who  
24 fails to timely comply with monthly reporting requirements under criteria  
25 and guidelines prescribed by rules and regulations of the secretary shall be  
26 subject to a penalty established by the secretary by rules and regulations.

27 (i) If the applicant or recipient of temporary assistance for needy  
28 families is a mother of the dependent child, as a condition of the mother's  
29 eligibility for temporary assistance for needy families the mother shall  
30 identify by name and, if known, by current address the father of the  
31 dependent child except that the secretary may adopt by rules and  
32 regulations exceptions to this requirement in cases of undue hardship. Any  
33 recipient of temporary assistance for needy families who fails to cooperate  
34 with requirements relating to child support services under criteria and  
35 guidelines prescribed by rules and regulations of the secretary shall be  
36 subject to a penalty established by the secretary.

37 (j) By applying for or receiving child care benefits or food assistance,  
38 the applicant or recipient shall be deemed to have assigned, pursuant to  
39 K.S.A. 39-756, and amendments thereto, to the secretary on behalf of the  
40 state only accrued, present or future rights to support from any other  
41 person such applicant may have in such person's own behalf or in behalf of  
42 any other family member for whom the applicant is applying for or  
43 receiving aid. The assignment of support rights shall automatically become

1 effective upon the date of approval for or receipt of such aid without the  
2 requirement that any document be signed by the applicant or recipient. By  
3 applying for or receiving child care benefits or food assistance, the  
4 applicant or recipient is also deemed to have appointed the secretary, or the  
5 secretary's designee, as an attorney in fact to perform the specific act of  
6 negotiating and endorsing all drafts, checks, money orders or other  
7 negotiable instruments representing support payments received by the  
8 secretary in behalf of any person applying for, receiving or having  
9 received such assistance. This limited power of attorney shall be effective  
10 from the date the secretary approves the application for aid and shall  
11 remain in effect until the assignment of support rights has been terminated  
12 in full. An applicant or recipient who has assigned support rights to the  
13 secretary pursuant to this subsection shall cooperate in establishing and  
14 enforcing support obligations to the same extent required of applicants for  
15 or recipients of temporary assistance for needy families.

16 (k) (1) A program of drug screening for applicants for cash assistance  
17 as a condition of eligibility for cash assistance and persons receiving cash  
18 assistance as a condition of continued receipt of cash assistance shall be  
19 established, subject to applicable federal law, by the secretary for children  
20 and families on and before January 1, 2014. Under such program of drug  
21 screening, the secretary for children and families shall order a drug  
22 screening of an applicant for or a recipient of cash assistance at any time  
23 when reasonable suspicion exists that such applicant for or recipient of  
24 cash assistance is unlawfully using a controlled substance or controlled  
25 substance analog. The secretary for children and families may use any  
26 information obtained by the secretary for children and families to  
27 determine whether such reasonable suspicion exists, including, but not  
28 limited to, an applicant's or recipient's demeanor, missed appointments and  
29 arrest or other police records, previous employment or application for  
30 employment in an occupation or industry that regularly conducts drug  
31 screening, termination from previous employment due to unlawful use of a  
32 controlled substance or controlled substance analog or prior drug screening  
33 records of the applicant or recipient indicating unlawful use of a controlled  
34 substance or controlled substance analog.

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

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

24 (4) If an applicant for or recipient of cash assistance is ineligible for  
25 or terminated from cash assistance as a result of a positive test for  
26 unlawful use of a controlled substance or controlled substance analog, and  
27 such applicant for or recipient of cash assistance is the parent or legal  
28 guardian of a minor child, an appropriate protective payee shall be  
29 designated to receive cash assistance on behalf of such child. Such parent  
30 or legal guardian of the minor child may choose to designate an individual  
31 to receive cash assistance for such parent's or legal guardian's minor child,  
32 as approved by the secretary for children and families. Prior to the  
33 designated individual receiving any cash assistance, the secretary for  
34 children and families shall review whether reasonable suspicion exists that  
35 such designated individual is unlawfully using a controlled substance or  
36 controlled substance analog.

37 (A) In addition, any individual designated to receive cash assistance  
38 on behalf of an eligible minor child shall be subject to drug screening at  
39 any time when reasonable suspicion exists that such designated individual  
40 is unlawfully using a controlled substance or controlled substance analog.  
41 The secretary for children and families may use any information obtained  
42 by the secretary for children and families to determine whether such  
43 reasonable suspicion exists, including, but not limited to, the designated

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

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

17 (C) Upon any positive test for unlawful use of a controlled substance  
18 or controlled substance analog, the designated individual shall not receive  
19 cash assistance on behalf of the parent's or legal guardian's minor child,  
20 and another designated individual shall be selected by the secretary for  
21 children and families to receive cash assistance on behalf of such parent's  
22 or legal guardian's minor child.

23 (5) If a person has been convicted under federal or state law of any  
24 offense which is classified as a felony by the law of the jurisdiction and  
25 which has as an element of such offense the manufacture, cultivation,  
26 distribution, possession or use of a controlled substance or controlled  
27 substance analog, and the date of conviction is on or after July 1, 2013,  
28 such person shall thereby become forever ineligible to receive any cash  
29 assistance under this subsection unless such conviction is the person's first  
30 conviction. First-time offenders convicted under federal or state law of any  
31 offense which is classified as a felony by the law of the jurisdiction and  
32 which has as an element of such offense the manufacture, cultivation,  
33 distribution, possession or use of a controlled substance or controlled  
34 substance analog, and the date of conviction is on or after July 1, 2013,  
35 such person shall become ineligible to receive cash assistance for five  
36 years from the date of conviction.

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

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

43 (8) Any authority granted to the secretary for children and families

1 under this subsection shall be in addition to any other penalties prescribed  
2 by law.

3 (9) As used in this subsection:

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

8 (B) "Controlled substance" means the same as in K.S.A. 2015 Supp.  
9 21-5701, and amendments thereto, and 21 U.S.C. § 802.

10 (C) "Controlled substance analog" means the same as in K.S.A. 2015  
11 Supp. 21-5701, and amendments thereto.

12 Sec. 2. K.S.A. 2015 Supp. 72-1111 is hereby amended to read as  
13 follows: 72-1111. (a) Subject to the other provisions of this section, every  
14 parent or person acting as parent in the state of Kansas, who has control  
15 over or charge of any child who has reached the age of seven years and is  
16 under the age of 18 years and has not attained a high school diploma or a  
17 general educational development (GED) credential, shall require such  
18 child to be regularly enrolled in and attend continuously each school year:  
19 (1) A public school for the duration of the school term provided for in  
20 K.S.A. 72-1106, and amendments thereto; or (2) a private, denominational  
21 or parochial school taught by a competent instructor for a period of time  
22 which is substantially equivalent to the period of time public school is  
23 maintained in the school district in which the private, denominational or  
24 parochial school is located. If the child is 16 or 17 years of age, the parent  
25 or person acting as parent, by written consent, or the court, pursuant to a  
26 court order, may allow the child to be exempt from the compulsory  
27 attendance requirements of this section. *A school shall report to the*  
28 *Kansas state department of education the identity of any child who, with*  
29 *parental consent, becomes exempt from compulsory attendance under this*  
30 *subsection.*

31 (b) If the child is 16 or 17 years of age, the child shall be exempt  
32 from the compulsory attendance requirements of this section if:

33 (1) The child is regularly enrolled in and attending a program  
34 recognized by the local board of education as an approved alternative  
35 educational program;

36 (2) the child and the parent or person acting as parent attend a final  
37 counseling session conducted by the school during which a disclaimer to  
38 encourage the child to remain in school or to pursue educational  
39 alternatives is presented to and signed by the child and the parent or person  
40 acting as parent. The disclaimer shall include information regarding the  
41 academic skills that the child has not yet achieved, the difference in future  
42 earning power between a high school graduate and a high school drop out,  
43 and a listing of educational alternatives that are available for the child. *The*

1 *school shall report to the Kansas state department of education the*  
2 *identity of any child who becomes exempt from compulsory attendance*  
3 *under this paragraph; or*

4 (3) the child is regularly enrolled in a school as required by  
5 subsection (a) and is concurrently enrolled in a postsecondary educational  
6 institution, as defined by K.S.A. 74-3201b, and amendments thereto. The  
7 provisions of this ~~clause~~ (3) *paragraph* shall be applicable to children from  
8 and after July 1, 1997, and shall relate back to such date.

9 (c) Any child who is under the age of seven years, but who is enrolled  
10 in school, is subject to the compulsory attendance requirements of this  
11 section. Any such child may be withdrawn from enrollment in school at  
12 any time by a parent or person acting as parent of the child and thereupon  
13 the child shall be exempt from the compulsory attendance requirements of  
14 this section until the child reaches the age of seven years or is re-enrolled  
15 in school.

16 (d) Any child who is determined to be an exceptional child, except  
17 for an exceptional child who is determined to be a gifted child, under the  
18 provisions of the special education for exceptional children act is subject  
19 to the compulsory attendance requirements of such act and is exempt from  
20 the compulsory attendance requirements of this section.

21 (e) Any child who has been admitted to, and is attending, the Kansas  
22 academy of mathematics and science, as provided in K.S.A. 72-9711 et  
23 seq., and amendments thereto, is exempt from the compulsory attendance  
24 requirements of this section.

25 (f) No child attending public school in this state shall be required to  
26 participate in any activity which is contrary to the religious teachings of  
27 the child if a written statement signed by one of the parents or a person  
28 acting as parent of the child is filed with the proper authorities of the  
29 school attended requesting that the child not be required to participate in  
30 such activities and stating the reason for the request.

31 (g) When a recognized church or religious denomination that objects  
32 to a regular public high school education provides, offers and teaches,  
33 either individually or in cooperation with another recognized church or  
34 religious denomination, a regularly supervised program of instruction,  
35 which is approved by the state board of education, for children of  
36 compulsory school attendance age who have successfully completed the  
37 eighth grade, participation in such a program of instruction by any such  
38 children whose parents or persons acting as parents are members of the  
39 sponsoring church or religious denomination shall be regarded as  
40 acceptable school attendance within the meaning of this act. Approval of  
41 such programs shall be granted by the state board of education, for two-  
42 year periods, upon application from recognized churches and religious  
43 denominations, under the following conditions:

1 (1) Each participating child shall be engaged, during each day on  
2 which attendance is legally required in the public schools in the school  
3 district in which the child resides, in at least five hours of learning  
4 activities appropriate to the adult occupation that the child is likely to  
5 assume in later years;

6 (2) acceptable learning activities, for the purposes of this subsection,  
7 shall include parent (or person acting as parent) supervised projects in  
8 agriculture and homemaking, work-study programs in cooperation with  
9 local business and industry, and correspondence courses from schools  
10 accredited by the national home study council, recognized by the United  
11 States office of education as the competent accrediting agency for private  
12 home study schools;

13 (3) at least 15 hours per week of classroom work under the  
14 supervision of an instructor shall be provided, at which time students shall  
15 be required to file written reports of the learning activities they have  
16 pursued since the time of the last class meeting, indicating the length of  
17 time spent on each one, and the instructor shall examine and evaluate such  
18 reports, approve plans for further learning activities, and provide necessary  
19 assignments and instruction;

20 (4) regular attendance reports shall be filed as required by law, and  
21 students shall be reported as absent for each school day on which they  
22 have not completed the prescribed minimum of five hours of learning  
23 activities;

24 (5) the instructor shall keep complete records concerning instruction  
25 provided, assignments made, and work pursued by the students, and these  
26 records shall be filed on the first day of each month with the state board of  
27 education and the board of education of the school district in which the  
28 child resides;

29 (6) the instructor shall be capable of performing competently the  
30 functions entrusted thereto; and

31 (7) in applying for approval under this subsection a recognized  
32 church or religious denomination shall certify its objection to a regular  
33 public high school education and shall specify, in such detail as the state  
34 board of education may reasonably require, the program of instruction that  
35 it intends to provide and no such program shall be approved unless it fully  
36 complies with standards therefor which shall be specified by the state  
37 board of education.

38 If the sponsors of an instructional program approved under this  
39 subsection fail to comply at any time with the provisions of this  
40 subsection, the state board of education shall rescind, after a written  
41 warning has been served and a period of three weeks allowed for  
42 compliance, approval of the programs, even though the two-year approval  
43 period has not elapsed, and thereupon children attending such program

1 shall be admitted to a high school of the school district.

2 (h) As used in this section:

3 (1) "Educational alternatives" means an alternative learning plan for  
4 the student that identifies educational programs that are located in the area  
5 where the student resides, and are designed to aid the student in obtaining  
6 a high school diploma, general educational development credential or  
7 other certification of completion, such as a career technical education  
8 industry certification. Such alternative learning plans may include  
9 extended learning opportunities such as independent study, private  
10 instruction, performing groups, internships, community service,  
11 apprenticeships and online coursework.

12 (2) "Parent" and "person acting as parent" have the meanings  
13 respectively ascribed thereto in K.S.A. 72-1046, and amendments thereto.

14 (3) "Regularly enrolled" means enrolled in five or more hours of  
15 instruction each school day. For the purposes of subsection (b)(3), hours of  
16 instruction received at a postsecondary educational institution shall be  
17 counted.

18 Sec. 3. K.S.A. 2015 Supp. 39-709 and 72-1111 are hereby repealed.

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