

Senate Substitute for HOUSE BILL No. 2043

By Committee on Public Health and Welfare

3-17

1 AN ACT concerning the secretaries for children and families and for aging
2 and disability services; powers, duties and functions: amending K.S.A.
3 75-5308d, 75-5309, 75-5364, 76-157, 76-158 and 76-12a24 and K.S.A.
4 2014 Supp. 8-2,144, 8-1025, 21-5909, 36-502, 38-2006, 38-2212, 39-
5 1702, 40-4702, 59-29a24, 65-689, 65-6233, 75-7d01, 75-5321a, 75-
6 53,105, 75-6524 and 75-7033 and repealing the existing sections.

7
8 *Be it enacted by the Legislature of the State of Kansas:*

9 Section 1. K.S.A. 2014 Supp. 75-53,105 is hereby amended to read as
10 follows: 75-53,105. (a) *As used in this section, "secretary" means the*
11 *secretary for children and families or the secretary for aging and*
12 *disability services.*

13 (b) ~~The secretary for children and families shall upon request receive~~
14 ~~from the Kansas bureau of investigation such criminal history record~~
15 ~~information as necessary for the purpose of determining initial and~~
16 ~~continuing qualification for employment or for participation in any~~
17 ~~program administered by the secretary for the placement, safety, protection~~
18 ~~or treatment of vulnerable children or adults.~~

19 (c) The secretary shall have access to any court orders or
20 adjudications of any court of record, any records of such orders,
21 adjudications, arrests, nonconvictions, convictions, expungements,
22 juvenile records, juvenile expungements, diversions and any criminal
23 history record information in the possession of the Kansas bureau of
24 investigation concerning such employee or individual.

25 (d) If a nationwide criminal records check of all records noted
26 above is necessary, as determined by the secretary, the secretary's request
27 will be based on the submission of fingerprints to the Kansas bureau of
28 investigation and the federal bureau of investigation for the identification
29 of the individual and to obtain criminal history record information,
30 including arrest and nonconviction data.

31 (e) Fees for such records checks shall be assessed to the secretary.

32 (f) Disclosure or use of any such information received by the
33 secretary or a designee of the secretary or of any record containing such
34 information, for any purpose other than that provided by this act is a class
35 A misdemeanor and shall constitute grounds for removal from office or
36 termination of employment. Nothing in this act shall be construed to make

1 unlawful or prohibit the disclosure of any such information in a hearing or
2 court proceeding involving programs administered by the secretary or
3 prohibit the disclosure of any such information to the post auditor in
4 accordance with and subject to the provisions of the legislative post audit
5 act.

6 Sec. 2. K.S.A. 2014 Supp. 8-2,144 is hereby amended to read as
7 follows: 8-2,144. (a) Driving a commercial motor vehicle under the
8 influence is operating or attempting to operate any commercial motor
9 vehicle, as defined in K.S.A. 8-2,128, and amendments thereto, within this
10 state while:

11 (1) The alcohol concentration in the person's blood or breath, as
12 shown by any competent evidence, including other competent evidence, as
13 defined in ~~paragraph (1) of subsection (f) of~~ K.S.A. 8-1013(f)(1), and
14 amendments thereto, is 0.04 or more;

15 (2) the alcohol concentration in the person's blood or breath, as
16 measured within three hours of the time of driving a commercial motor
17 vehicle, is 0.04 or more; or

18 (3) committing a violation of ~~subsection (a) of~~ K.S.A. 8-1567(a), and
19 amendments thereto, or the ordinance of a city or resolution of a county
20 which prohibits any of the acts prohibited thereunder.

21 (b) (1) Driving a commercial motor vehicle under the influence is:

22 (A) On a first conviction a class B, nonperson misdemeanor. The
23 person convicted shall be sentenced to not less than 48 consecutive hours
24 nor more than six months' imprisonment, or in the court's discretion, 100
25 hours of public service, and fined not less than \$750 nor more than \$1,000.
26 The person convicted shall serve at least 48 consecutive hours'
27 imprisonment or 100 hours of public service either before or as a condition
28 of any grant of probation, suspension or reduction of sentence or parole or
29 other release;

30 (B) on a second conviction a class A, nonperson misdemeanor. The
31 person convicted shall be sentenced to not less than 90 days nor more than
32 one year's imprisonment and fined not less than \$1,250 nor more than
33 \$1,750. The person convicted shall serve at least five consecutive days'
34 imprisonment before the person is granted probation, suspension or
35 reduction of sentence or parole or is otherwise released. The five days'
36 imprisonment mandated by this subsection may be served in a work
37 release program only after such person has served 48 consecutive hours'
38 imprisonment, provided such work release program requires such person
39 to return to confinement at the end of each day in the work release
40 program. The person convicted, if placed into a work release program,
41 shall serve a minimum of 120 hours of confinement. Such 120 hours of
42 confinement shall be a period of at least 48 consecutive hours of
43 imprisonment followed by confinement hours at the end of and continuing

1 to the beginning of the offender's work day. The court may place the
2 person convicted under a house arrest program pursuant to K.S.A. 2014
3 Supp. 21-6609, and amendments thereto, to serve the five days'
4 imprisonment mandated by this subsection only after such person has
5 served 48 consecutive hours' imprisonment. The person convicted, if
6 placed under house arrest, shall be monitored by an electronic monitoring
7 device, which verifies the offender's location. The offender shall serve a
8 minimum of 120 hours of confinement within the boundaries of the
9 offender's residence. Any exceptions to remaining within the boundaries of
10 the offender's residence provided for in the house arrest agreement shall
11 not be counted as part of the 120 hours; and

12 (C) on a third or subsequent conviction a nonperson felony. The
13 person convicted shall be sentenced to not less than 90 days nor more than
14 one year's imprisonment and fined not less than \$1,750 nor more than
15 \$2,500. The person convicted shall not be eligible for release on probation,
16 suspension or reduction of sentence or parole until the person has served at
17 least 90 days' imprisonment. The 90 days' imprisonment mandated by this
18 subsection may be served in a work release program only after such person
19 has served 48 consecutive hours' imprisonment, provided such work
20 release program requires such person to return to confinement at the end of
21 each day in the work release program. The person convicted, if placed into
22 a work release program, shall serve a minimum of 2,160 hours of
23 confinement. Such 2,160 hours of confinement shall be a period of at least
24 48 consecutive hours of imprisonment followed by confinement hours at
25 the end of and continuing to the beginning of the offender's work day. The
26 court may place the person convicted under a house arrest program
27 pursuant to K.S.A. 2014 Supp. 21-6609, and amendments thereto, to serve
28 the 90 days' imprisonment mandated by this subsection only after such
29 person has served 48 consecutive hours' imprisonment. The person
30 convicted, if placed under house arrest, shall be monitored by an electronic
31 monitoring device, which verifies the offender's location. The offender
32 shall serve a minimum of 2,160 hours of confinement within the
33 boundaries of the offender's residence. Any exceptions to remaining within
34 the boundaries of the offender's residence provided for in the house arrest
35 agreement shall not be counted as part of the 2,160 hours.

36 (2) In addition, for any conviction pursuant to subsection (b)(1)(C), at
37 the time of the filing of the judgment form or journal entry as required by
38 K.S.A. 22-3426 or K.S.A. 2014 Supp. 21-6711, and amendments thereto,
39 the court shall cause a certified copy to be sent to the officer having the
40 offender in charge. The court shall determine whether the offender, upon
41 release from imprisonment, shall be supervised by community correctional
42 services or court services based upon the risk and needs of the offender.
43 The risk and needs of the offender shall be determined by use of a risk

1 assessment tool specified by the Kansas sentencing commission. The law
2 enforcement agency maintaining custody and control of a defendant for
3 imprisonment shall cause a certified copy of the judgment form or journal
4 entry to be sent to the supervision office designated by the court and upon
5 expiration of the term of imprisonment shall deliver the defendant to a
6 location designated by the supervision office designated by the court. After
7 the term of imprisonment imposed by the court, the person shall be placed
8 on supervision to community correctional services or court services, as
9 determined by the court, for a mandatory one-year period of supervision,
10 which such period of supervision shall not be reduced. During such
11 supervision, the person shall be required to participate in a
12 multidisciplinary model of services for substance use disorders facilitated
13 by a *Kansas department of social and rehabilitation for aging and*
14 *disability* services designated care coordination agency to include
15 assessment and, if appropriate, referral to a community based substance
16 use disorder treatment including recovery management and mental health
17 counseling as needed. The multidisciplinary team shall include the
18 designated care coordination agency, the supervision officer, the ~~social and~~
19 ~~rehabilitation~~ *aging and disability* services department designated
20 treatment provider and the offender. Any violation of the conditions of
21 such supervision may subject such person to revocation of supervision and
22 imprisonment in jail for the remainder of the period of imprisonment, the
23 remainder of the supervision period, or any combination or portion
24 thereof.

25 (3) In addition, prior to sentencing for any conviction pursuant to
26 subsection (b)(1)(A) or (b)(1)(B), the court shall order the person to
27 participate in an alcohol and drug evaluation conducted by a provider in
28 accordance with K.S.A. 8-1008, and amendments thereto. The person shall
29 be required to follow any recommendation made by the provider after such
30 evaluation, unless otherwise ordered by the court.

31 (c) Any person convicted of a violation of this section, or a violation
32 of a city ordinance or county resolution prohibiting the acts prohibited by
33 this section, who had one or more children under the age of 14 years in the
34 vehicle at the time of the offense shall have such person's punishment
35 enhanced by one month of imprisonment. This imprisonment shall be
36 served consecutively to any other minimum mandatory penalty imposed
37 for a violation of this section, or a violation of a city ordinance or county
38 resolution prohibiting the acts prohibited by this section. Any enhanced
39 penalty imposed shall not exceed the maximum sentence allowable by law.
40 During the service of the enhanced penalty, the judge may order the person
41 on house arrest, work release or other conditional release.

42 (d) If a person is charged with a violation of this section involving
43 drugs, the fact that the person is or has been entitled to use the drug under

1 the laws of this state shall not constitute a defense against the charge.

2 (e) The court may establish the terms and time for payment of any
3 fines, fees, assessments and costs imposed pursuant to this section. Any
4 assessment and costs shall be required to be paid not later than 90 days
5 after imposed, and any remainder of the fine shall be paid prior to the final
6 release of the defendant by the court.

7 (f) In lieu of payment of a fine imposed pursuant to this section, the
8 court may order that the person perform community service specified by
9 the court. The person shall receive a credit on the fine imposed in an
10 amount equal to \$5 for each full hour spent by the person in the specified
11 community service. The community service ordered by the court shall be
12 required to be performed not later than one year after the fine is imposed
13 or by an earlier date specified by the court. If by the required date the
14 person performs an insufficient amount of community service to reduce to
15 zero the portion of the fine required to be paid by the person, the
16 remaining balance of the fine shall become due on that date.

17 (g) Prior to filing a complaint alleging a violation of this section, a
18 prosecutor shall request and shall receive from the: (1) Division a record
19 of all prior convictions obtained against such person for any violations of
20 any of the motor vehicle laws of this state; and (2) Kansas bureau of
21 investigation central repository all criminal history record information
22 concerning such person.

23 (h) The court shall electronically report every conviction of a
24 violation of this section and every diversion agreement entered into in lieu
25 of further criminal proceedings on a complaint alleging a violation of this
26 section to the division. Prior to sentencing under the provisions of this
27 section, the court shall request and shall receive from the: (1) Division a
28 record of all prior convictions obtained against such person for any
29 violation of any of the motor vehicle laws of this state; and (2) Kansas
30 bureau of investigation central repository all criminal history record
31 information concerning such person.

32 (i) Upon conviction of a person of a violation of this section or a
33 violation of a city ordinance or county resolution prohibiting the acts
34 prohibited by this section, the division, upon receiving a report of
35 conviction, shall: (1) Disqualify the person from driving a commercial
36 motor vehicle under K.S.A. 8-2,142, and amendments thereto; and (2)
37 suspend, restrict or suspend and restrict the person's driving privileges as
38 provided by K.S.A. 8-1014, and amendments thereto.

39 (j) (1) Nothing contained in this section shall be construed as
40 preventing any city from enacting ordinances, or any county from adopting
41 resolutions, declaring acts prohibited or made unlawful by this section as
42 unlawful or prohibited in such city or county and prescribing penalties for
43 violation thereof.

1 (2) The minimum penalty prescribed by any such ordinance or
2 resolution shall not be less than the minimum penalty prescribed by this
3 section for the same violation, and the maximum penalty in any such
4 ordinance or resolution shall not exceed the maximum penalty prescribed
5 for the same violation.

6 (3) Any such ordinance or resolution shall authorize the court to order
7 that the convicted person pay restitution to any victim who suffered loss
8 due to the violation for which the person was convicted.

9 (k) (1) Upon the filing of a complaint, citation or notice to appear
10 alleging a person has violated a city ordinance prohibiting the acts
11 prohibited by this section, and prior to conviction thereof, a city attorney
12 shall request and shall receive from the: (A) Division of vehicles a record
13 of all prior convictions obtained against such person for any violations of
14 any of the motor vehicle laws of this state; and (B) Kansas bureau of
15 investigation central repository all criminal history record information
16 concerning such person.

17 (2) If the elements of such ordinance violation are the same as the
18 elements of a violation of this section that would constitute, and be
19 punished as, a felony, the city attorney shall refer the violation to the
20 appropriate county or district attorney for prosecution. The county or
21 district attorney shall accept such referral and pursue a disposition of such
22 violation, and shall not refer any such violation back to the city attorney.

23 (l) No plea bargaining agreement shall be entered into nor shall any
24 judge approve a plea bargaining agreement entered into for the purpose of
25 permitting a person charged with a violation of this section, or a violation
26 of any ordinance of a city or resolution of any county in this state which
27 prohibits the acts prohibited by this section, to avoid the mandatory
28 penalties established by this section or by the ordinance or resolution.

29 (m) The alternatives set out in subsections (a)(1), (a)(2) and (a)(3)
30 may be pleaded in the alternative, and the state, city or county may, but
31 shall not be required to, elect one or two of the three prior to submission of
32 the case to the fact finder.

33 (n) For the purpose of determining whether a conviction is a first,
34 second, third or subsequent conviction in sentencing under this section:

35 (1) Convictions for a violation of K.S.A. 8-1567, and amendments
36 thereto, or a violation of an ordinance of any city or resolution of any
37 county which prohibits the acts that such section prohibits, or entering into
38 a diversion agreement in lieu of further criminal proceedings on a
39 complaint alleging any such violations, shall be taken into account, but
40 only convictions or diversions occurring on or after July 1, 2001. Nothing
41 in this provision shall be construed as preventing any court from
42 considering any convictions or diversions occurring during the person's
43 lifetime in determining the sentence to be imposed within the limits

1 provided for a first, second, third, fourth or subsequent offense;

2 (2) any convictions for a violation of the following sections occurring
3 during a person's lifetime shall be taken into account: (A) This section; (B)
4 refusing to submit to a test to determine the presence of alcohol or drugs,
5 K.S.A. 2014 Supp. 8-1025, and amendments thereto; (C) operating a
6 vessel under the influence of alcohol or drugs, K.S.A. 32-1131, and
7 amendments thereto; (D) involuntary manslaughter while driving under
8 the influence of alcohol or drugs, K.S.A. 21-3442, prior to its repeal, or
9 ~~subsection (a)(3) of K.S.A. 2014 Supp. 21-5405(a)(3)~~, and amendments
10 thereto; (E) aggravated battery as described in ~~subsection (b)(3) of K.S.A.~~
11 2014 Supp. 21-5413(b)(3), and amendments thereto; and (F) aggravated
12 vehicular homicide, K.S.A. 21-3405a, prior to its repeal, or vehicular
13 battery, K.S.A. 21-3405b, prior to its repeal, if the crime was committed
14 while committing a violation of K.S.A. 8-1567, and amendments thereto;

15 (3) "conviction" includes: (A) Entering into a diversion agreement in
16 lieu of further criminal proceedings on a complaint alleging a violation of
17 a crime described in subsection (n)(2); (B) conviction of a violation of an
18 ordinance of a city in this state, a resolution of a county in this state or any
19 law of another state which would constitute a crime described in
20 subsection (n)(1) or (n)(2); and (C) receiving punishment under the
21 uniform code of military justice or Kansas code of military justice for an
22 act which was committed on a military reservation and which would
23 constitute a crime described in subsection (n)(1) or (n)(2) if committed off
24 a military reservation in this state;

25 (4) it is irrelevant whether an offense occurred before or after
26 conviction for a previous offense; and

27 (5) multiple convictions of any crime described in subsection (n)(1)
28 or (n)(2) arising from the same arrest shall only be counted as one
29 conviction.

30 (o) For the purpose of this section:

31 (1) "Alcohol concentration" means the number of grams of alcohol
32 per 100 milliliters of blood or per 210 liters of breath;

33 (2) "imprisonment" shall include any restrained environment in which
34 the court and law enforcement agency intend to retain custody and control
35 of a defendant and such environment has been approved by the board of
36 county commissioners or the governing body of a city; and

37 (3) "drug" includes toxic vapors as such term is defined in K.S.A.
38 2014 Supp. 21-5712, and amendments thereto.

39 (p) On and after July 1, 2011, the amount of \$250 from each fine
40 imposed pursuant to this section shall be remitted by the clerk of the
41 district court to the state treasurer in accordance with the provisions of
42 K.S.A. 75-4215, and amendments thereto. Upon receipt of each such
43 remittance, the state treasurer shall credit the entire amount to the

1 community corrections supervision fund established by K.S.A. 2014 Supp.
2 75-52,113, and amendments thereto.

3 Sec. 3. K.S.A. 2014 Supp. 8-1025 is hereby amended to read as
4 follows: 8-1025. (a) Refusing to submit to a test to determine the presence
5 of alcohol or drugs is refusing to submit to or complete a test or tests
6 deemed consented to under ~~subsection (a) of~~ K.S.A. 8-1001(a), and
7 amendments thereto, if such person has:

8 (1) Any prior test refusal as defined in K.S.A. 8-1013, and
9 amendments thereto, which occurred: (A) On or after July 1, 2001; and (B)
10 when such person was 18 years of age or older; or

11 (2) any prior conviction for a violation of K.S.A. 8-1567 or 8-2,144,
12 and amendments thereto, or a violation of an ordinance of any city or
13 resolution of any county which prohibits the acts that such section
14 prohibits, or entering into a diversion agreement in lieu of further criminal
15 proceedings on a complaint alleging any such violations, which occurred:
16 (A) On or after July 1, 2001; and (B) when such person was 18 years of
17 age or older.

18 (b) (1) Refusing to submit to a test to determine the presence of
19 alcohol or drugs is:

20 (A) On a first conviction a class A, nonperson misdemeanor. The
21 person convicted shall be sentenced to not less than 90 days nor more than
22 one year's imprisonment and fined not less than \$1,250 nor more than
23 \$1,750. The person convicted shall serve at least five consecutive days'
24 imprisonment before the person is granted probation, suspension or
25 reduction of sentence or parole or is otherwise released. The five days'
26 imprisonment mandated by this subsection may be served in a work
27 release program only after such person has served 48 consecutive hours'
28 imprisonment, provided such work release program requires such person
29 to return to confinement at the end of each day in the work release
30 program. The person convicted, if placed into a work release program,
31 shall serve a minimum of 120 hours of confinement. Such 120 hours of
32 confinement shall be a period of at least 48 consecutive hours of
33 imprisonment followed by confinement hours at the end of and continuing
34 to the beginning of the offender's work day. The court may place the
35 person convicted under a house arrest program pursuant to K.S.A. 2014
36 Supp. 21-6609, and amendments thereto, to serve the five days'
37 imprisonment mandated by this subsection only after such person has
38 served 48 consecutive hours' imprisonment. The person convicted, if
39 placed under house arrest, shall be monitored by an electronic monitoring
40 device, which verifies the offender's location. The offender shall serve a
41 minimum of 120 hours of confinement within the boundaries of the
42 offender's residence. Any exceptions to remaining within the boundaries of
43 the offender's residence provided for in the house arrest agreement shall

1 not be counted as part of the 120 hours;

2 (B) on a second conviction a class A, nonperson misdemeanor, except
3 as provided in subsection (b)(1)(C). The person convicted shall be
4 sentenced to not less than 90 days nor more than one year's imprisonment
5 and fined not less than \$1,750 nor more than \$2,500. The person convicted
6 shall not be eligible for release on probation, suspension or reduction of
7 sentence or parole until the person has served at least 90 days'
8 imprisonment. The 90 days' imprisonment mandated by this subsection
9 may be served in a work release program only after such person has served
10 48 consecutive hours' imprisonment, provided such work release program
11 requires such person to return to confinement at the end of each day in the
12 work release program. The person convicted, if placed into a work release
13 program, shall serve a minimum of 2,160 hours of confinement. Such
14 2,160 hours of confinement shall be a period of at least 48 consecutive
15 hours of imprisonment followed by confinement hours at the end of and
16 continuing to the beginning of the offender's work day. The court may
17 place the person convicted under a house arrest program pursuant to
18 K.S.A. 2014 Supp. 21-6609, and amendments thereto, to serve the 90 days'
19 imprisonment mandated by this subsection only after such person has
20 served 48 consecutive hours' imprisonment. The person convicted, if
21 placed under house arrest, shall be monitored by an electronic monitoring
22 device, which verifies the offender's location. The offender shall serve a
23 minimum of 2,160 hours of confinement within the boundaries of the
24 offender's residence. Any exceptions to remaining within the boundaries of
25 the offender's residence provided for in the house arrest agreement shall
26 not be counted as part of the 2,160 hours;

27 (C) on a second conviction a nonperson felony if the person has a
28 prior conviction which occurred within the preceding 10 years, not
29 including any period of incarceration. The person convicted shall be
30 sentenced to not less than 90 days nor more than one year's imprisonment
31 and fined not less than \$1,750 nor more than \$2,500. The person convicted
32 shall not be eligible for release on probation, suspension or reduction of
33 sentence or parole until the person has served at least 90 days'
34 imprisonment. The 90 days' imprisonment mandated by this subsection
35 may be served in a work release program only after such person has served
36 48 consecutive hours' imprisonment, provided such work release program
37 requires such person to return to confinement at the end of each day in the
38 work release program. The person convicted, if placed into a work release
39 program, shall serve a minimum of 2,160 hours of confinement. Such
40 2,160 hours of confinement shall be a period of at least 48 consecutive
41 hours of imprisonment followed by confinement hours at the end of and
42 continuing to the beginning of the offender's work day. The court may
43 place the person convicted under a house arrest program pursuant to

1 K.S.A. 2014 Supp. 21-6609, and amendments thereto, to serve the 90 days'
2 imprisonment mandated by this subsection only after such person has
3 served 48 consecutive hours' imprisonment. The person convicted, if
4 placed under house arrest, shall be monitored by an electronic monitoring
5 device, which verifies the offender's location. The offender shall serve a
6 minimum of 2,160 hours of confinement within the boundaries of the
7 offender's residence. Any exceptions to remaining within the boundaries of
8 the offender's residence provided for in the house arrest agreement shall
9 not be counted as part of the 2,160 hours; and

10 (D) on a third or subsequent conviction a nonperson felony. The
11 person convicted shall be sentenced to not less than 90 days nor more than
12 one year's imprisonment and fined \$2,500. The person convicted shall not
13 be eligible for release on probation, suspension or reduction of sentence or
14 parole until the person has served at least 90 days' imprisonment. The 90
15 days' imprisonment mandated by this subsection may be served in a work
16 release program only after such person has served 72 consecutive hours'
17 imprisonment, provided such work release program requires such person
18 to return to confinement at the end of each day in the work release
19 program. The person convicted, if placed into a work release program,
20 shall serve a minimum of 2,160 hours of confinement. Such 2,160 hours of
21 confinement shall be a period of at least 72 consecutive hours of
22 imprisonment followed by confinement hours at the end of and continuing
23 to the beginning of the offender's work day. The court may place the
24 person convicted under a house arrest program pursuant to K.S.A. 2014
25 Supp. 21-6609, and amendments thereto, to serve the 90 days'
26 imprisonment mandated by this subsection only after such person has
27 served 72 consecutive hours' imprisonment. The person convicted, if
28 placed under house arrest, shall be monitored by an electronic monitoring
29 device, which verifies the offender's location. The offender shall serve a
30 minimum of 2,160 hours of confinement within the boundaries of the
31 offender's residence. Any exceptions to remaining within the boundaries of
32 the offender's residence provided for in the house arrest agreement shall
33 not be counted as part of the 2,160 hours.

34 (2) The court may order that the term of imprisonment imposed
35 pursuant to subsection (b)(1)(C) or (b)(1)(D) be served in a state facility in
36 the custody of the secretary of corrections in a facility designated by the
37 secretary for the provision of substance abuse treatment pursuant to the
38 provisions of K.S.A. 2014 Supp. 21-6804, and amendments thereto. The
39 person shall remain imprisoned at the state facility only while participating
40 in the substance abuse treatment program designated by the secretary and
41 shall be returned to the custody of the sheriff for execution of the balance
42 of the term of imprisonment upon completion of or the person's discharge
43 from the substance abuse treatment program. Custody of the person shall

1 be returned to the sheriff for execution of the sentence imposed in the
2 event the secretary of corrections determines: (A) That substance abuse
3 treatment resources or the capacity of the facility designated by the
4 secretary for the incarceration and treatment of the person is not available;
5 (B) the person fails to meaningfully participate in the treatment program of
6 the designated facility; (C) the person is disruptive to the security or
7 operation of the designated facility; or (D) the medical or mental health
8 condition of the person renders the person unsuitable for confinement at
9 the designated facility. The determination by the secretary that the person
10 either is not to be admitted into the designated facility or is to be
11 transferred from the designated facility is not subject to review. The sheriff
12 shall be responsible for all transportation expenses to and from the state
13 correctional facility.

14 (3) In addition, for any conviction pursuant to subsection (b)(1)(B),
15 (b)(1)(C) or (b)(1)(D), at the time of the filing of the judgment form or
16 journal entry as required by K.S.A. 22-3426 or K.S.A. 2014 Supp. 21-
17 6711, and amendments thereto, the court shall cause a certified copy to be
18 sent to the officer having the offender in charge. The court shall determine
19 whether the offender, upon release from imprisonment, shall be supervised
20 by community correctional services or court services based upon the risk
21 and needs of the offender. The risk and needs of the offender shall be
22 determined by use of a risk assessment tool specified by the Kansas
23 sentencing commission. The law enforcement agency maintaining custody
24 and control of a defendant for imprisonment shall cause a certified copy of
25 the judgment form or journal entry to be sent to the supervision office
26 designated by the court and upon expiration of the term of imprisonment
27 shall deliver the defendant to a location designated by the supervision
28 office designated by the court. After the term of imprisonment imposed by
29 the court, the person shall be placed on supervision to community
30 correctional services or court services, as determined by the court, for a
31 mandatory one-year period of supervision, which such period of
32 supervision shall not be reduced. During such supervision, the person shall
33 be required to participate in a multidisciplinary model of services for
34 substance use disorders facilitated by a *Kansas* department of ~~social and~~
35 ~~rehabilitation~~ *for aging and disability* services designated care
36 coordination agency to include assessment and, if appropriate, referral to a
37 community based substance use disorder treatment including recovery
38 management and mental health counseling as needed. The
39 multidisciplinary team shall include the designated care coordination
40 agency, the supervision officer, the ~~social and rehabilitation~~ *aging and*
41 *disability* services department designated treatment provider and the
42 offender. Any violation of the conditions of such supervision may subject
43 such person to revocation of supervision and imprisonment in jail for the

1 remainder of the period of imprisonment, the remainder of the supervision
2 period, or any combination or portion thereof.

3 (4) In addition, prior to sentencing for any conviction pursuant to
4 subsection (b)(1)(A), the court shall order the person to participate in an
5 alcohol and drug evaluation conducted by a provider in accordance with
6 K.S.A. 8-1008, and amendments thereto. The person shall be required to
7 follow any recommendation made by the provider after such evaluation,
8 unless otherwise ordered by the court.

9 (c) Any person convicted of violating this section or an ordinance
10 which prohibits the acts that this section prohibits who had one or more
11 children under the age of 14 years in the vehicle at the time of the offense
12 shall have such person's punishment enhanced by one month of
13 imprisonment. This imprisonment must be served consecutively to any
14 other minimum mandatory penalty imposed for a violation of this section
15 or an ordinance which prohibits the acts that this section prohibits. Any
16 enhanced penalty imposed shall not exceed the maximum sentence
17 allowable by law. During the service of the enhanced penalty, the judge
18 may order the person on house arrest, work release or other conditional
19 release.

20 (d) The court may establish the terms and time for payment of any
21 fines, fees, assessments and costs imposed pursuant to this section. Any
22 assessments and costs shall be required to be paid not later than 90 days
23 after imposed, and any remainder of the fine shall be paid prior to the final
24 release of the defendant by the court.

25 (e) In lieu of payment of a fine imposed pursuant to this section, the
26 court may order that the person perform community service specified by
27 the court. The person shall receive a credit on the fine imposed in an
28 amount equal to \$5 for each full hour spent by the person in the specified
29 community service. The community service ordered by the court shall be
30 required to be performed not later than one year after the fine is imposed
31 or by an earlier date specified by the court. If by the required date the
32 person performs an insufficient amount of community service to reduce to
33 zero the portion of the fine required to be paid by the person, the
34 remaining balance of the fine shall become due on that date.

35 (f) Prior to filing a complaint alleging a violation of this section, a
36 prosecutor shall request and shall receive from the:

37 (1) Division a record of all prior convictions obtained against such
38 person for any violations of any of the motor vehicle laws of this state; and

39 (2) Kansas bureau of investigation central repository all criminal
40 history record information concerning such person.

41 (g) The court shall electronically report every conviction of a
42 violation of this section and every diversion agreement entered into in lieu
43 of further criminal proceedings on a complaint alleging a violation of this

1 section to the division. Prior to sentencing under the provisions of this
2 section, the court shall request and shall receive from the division a record
3 of all prior convictions obtained against such person for any violations of
4 any of the motor vehicle laws of this state.

5 (h) For the purpose of determining whether a conviction is a first,
6 second, third, fourth or subsequent conviction in sentencing under this
7 section:

8 (1) Convictions for a violation of K.S.A. 8-1567, and amendments
9 thereto, or a violation of an ordinance of any city or resolution of any
10 county which prohibits the acts that such section prohibits, or entering into
11 a diversion agreement in lieu of further criminal proceedings on a
12 complaint alleging any such violations, shall be taken into account, but
13 only convictions or diversions occurring: (A) On or after July 1, 2001; and
14 (B) when such person was 18 years of age or older. Nothing in this
15 provision shall be construed as preventing any court from considering any
16 convictions or diversions occurring during the person's lifetime in
17 determining the sentence to be imposed within the limits provided for a
18 first, second, third, fourth or subsequent offense;

19 (2) any convictions for a violation of the following sections which
20 occurred during a person's lifetime shall be taken into account, but only
21 convictions occurring when such person was 18 years of age or older: (A)
22 This section; (B) driving a commercial motor vehicle under the influence,
23 K.S.A. 8-2,144, and amendments thereto; (C) operating a vessel under the
24 influence of alcohol or drugs, K.S.A. 32-1131, and amendments thereto;
25 (D) involuntary manslaughter while driving under the influence of alcohol
26 or drugs, K.S.A. 21-3442, prior to its repeal, or ~~subsection (a)(3) of K.S.A.~~
27 2014 Supp. 21-5405(a)(3), and amendments thereto; (E) aggravated
28 battery as described in ~~subsection (b)(3) of K.S.A. 2014 Supp. 21-5413(b)~~
29 (3), and amendments thereto; and (F) aggravated vehicular homicide,
30 K.S.A. 21-3405a, prior to its repeal, or vehicular battery, K.S.A. 21-3405b,
31 prior to its repeal, if the crime was committed while committing a
32 violation of K.S.A. 8-1567, and amendments thereto;

33 (3) "conviction" includes: (A) Entering into a diversion agreement in
34 lieu of further criminal proceedings on a complaint alleging a violation of
35 a crime described in subsection (h)(2); (B) conviction of a violation of an
36 ordinance of a city in this state, a resolution of a county in this state or any
37 law of another state which would constitute a crime described in
38 subsection (h)(1) or (h)(2); and (C) receiving punishment under the
39 uniform code of military justice or Kansas code of military justice for an
40 act which was committed on a military reservation and which would
41 constitute a crime described in subsection (h)(1) or (h)(2) if committed off
42 a military reservation in this state;

43 (4) it is irrelevant whether an offense occurred before or after

1 conviction for a previous offense;

2 (5) multiple convictions of any crime described in subsection (h)(1)
3 or (h)(2) arising from the same arrest shall only be counted as one
4 conviction;

5 (6) the prior conviction that is an element of the crime of refusing to
6 submit to a test to determine the presence of alcohol or drugs shall not be
7 used for the purpose of determining whether a conviction is a first, second,
8 third or subsequent conviction in sentencing under this section and shall
9 not be considered in determining the sentence to be imposed within the
10 limits provided for a first, second, third or subsequent offense; and

11 (7) a person may enter into a diversion agreement in lieu of further
12 criminal proceedings for a violation of this section, or an ordinance which
13 prohibits the acts of this section, only once during the person's lifetime.

14 (i) Upon conviction of a person of a violation of this section or a
15 violation of a city ordinance or county resolution prohibiting the acts
16 prohibited by this section, the division, upon receiving a report of
17 conviction, shall suspend, restrict or suspend and restrict the person's
18 driving privileges as provided by K.S.A. 8-1014, and amendments thereto.

19 (j) (1) Nothing contained in this section shall be construed as
20 preventing any city from enacting ordinances, or any county from adopting
21 resolutions, declaring acts prohibited or made unlawful by this act as
22 unlawful or prohibited in such city or county and prescribing penalties for
23 violation thereof.

24 (2) The minimum penalty prescribed by any such ordinance or
25 resolution shall not be less than the minimum penalty prescribed by this
26 section for the same violation, and the maximum penalty in any such
27 ordinance or resolution shall not exceed the maximum penalty prescribed
28 for the same violation.

29 (3) An ordinance may grant to a municipal court jurisdiction over a
30 violation of such ordinance which is concurrent with the jurisdiction of the
31 district court over a violation of this section, notwithstanding that the
32 elements of such ordinance violation are the same as the elements of a
33 violation of this section that would constitute, and be punished as, a felony.

34 (4) Any such ordinance or resolution shall authorize the court to order
35 that the convicted person pay restitution to any victim who suffered loss
36 due to the violation for which the person was convicted.

37 (k) (1) Upon the filing of a complaint, citation or notice to appear
38 alleging a person has violated a city ordinance prohibiting the acts
39 prohibited by this section, and prior to conviction thereof, a city attorney
40 shall request and shall receive from the:

41 (A) Division a record of all prior convictions obtained against such
42 person for any violations of any of the motor vehicle laws of this state; and

43 (B) Kansas bureau of investigation central repository all criminal

1 history record information concerning such person.

2 (2) If the elements of such ordinance violation are the same as the
3 elements of a violation of this section that would constitute, and be
4 punished as, a felony, the city attorney shall refer the violation to the
5 appropriate county or district attorney for prosecution.

6 (l) No plea bargaining agreement shall be entered into nor shall any
7 judge approve a plea bargaining agreement entered into for the purpose of
8 permitting a person charged with a violation of this section, or a violation
9 of any ordinance of a city or resolution of any county in this state which
10 prohibits the acts prohibited by this section, to avoid the mandatory
11 penalties established by this section or by the ordinance. For the purpose
12 of this subsection, entering into a diversion agreement pursuant to K.S.A.
13 12-4413 et seq. or 22-2906 et seq., and amendments thereto, shall not
14 constitute plea bargaining.

15 (m) As used in this section, "imprisonment" shall include any
16 restrained environment in which the court and law enforcement agency
17 intend to retain custody and control of a defendant and such environment
18 has been approved by the board of county commissioners or the governing
19 body of a city.

20 (n) On and after July 1, 2012, the amount of \$250 from each fine
21 imposed pursuant to this section shall be remitted by the clerk of the
22 district court to the state treasurer in accordance with the provisions of
23 K.S.A. 75-4215, and amendments thereto. Upon receipt of each such
24 remittance, the state treasurer shall credit the entire amount to the
25 community corrections supervision fund established by K.S.A. 2014 Supp.
26 75-52,113, and amendments thereto.

27 Sec. 4. K.S.A. 2014 Supp. 21-5909 is hereby amended to read as
28 follows: 21-5909. (a) Intimidation of a witness or victim is preventing or
29 dissuading, or attempting to prevent or dissuade, with an intent to vex,
30 annoy, harm or injure in any way another person or an intent to thwart or
31 interfere in any manner with the orderly administration of justice:

32 (1) Any witness or victim from attending or giving testimony at any
33 civil or criminal trial, proceeding or inquiry authorized by law; or

34 (2) any witness, victim or person acting on behalf of a victim from:

35 (A) Making any report of the victimization of a victim to any law
36 enforcement officer, prosecutor, probation officer, parole officer,
37 correctional officer, community correctional services officer or judicial
38 officer, ~~the secretary of the department of social and rehabilitation~~
39 *for children and families, the secretary for aging and disability* services or any
40 agent or representative of the secretary, or any person required to make a
41 report pursuant to K.S.A. 2014 Supp. 38-2223, and amendments thereto;

42 (B) causing a complaint, indictment or information to be sought and
43 prosecuted, or causing a violation of probation, parole or assignment to a

1 community correctional services program to be reported and prosecuted,
2 and assisting in its prosecution;

3 (C) causing a civil action to be filed and prosecuted and assisting in
4 its prosecution; or

5 (D) arresting or causing or seeking the arrest of any person in
6 connection with the victimization of a victim.

7 (b) Aggravated intimidation of a witness or victim is intimidation of a
8 witness or victim, as defined in subsection (a), when the:

9 (1) Act is accompanied by an expressed or implied threat of force or
10 violence against a witness, victim or other person or the property of any
11 witness, victim or other person;

12 (2) act is in furtherance of a conspiracy;

13 (3) act is committed by a person who has been previously convicted
14 of corruptly influencing a witness or has been convicted of a violation of
15 this section or any federal or other state's statute which, if the act
16 prosecuted was committed in this state, would be a violation of this
17 section;

18 (4) witness or victim is under 18 years of age; or

19 (5) act is committed for pecuniary gain or for any other consideration
20 by a person acting upon the request of another person.

21 (c) (1) Intimidation of a witness or victim is a class B person
22 misdemeanor.

23 (2) Aggravated intimidation of a witness or victim is a severity level
24 6, person felony.

25 Sec. 5. K.S.A. 2014 Supp. 36-502 is hereby amended to read as
26 follows: 36-502. (a) It shall be unlawful for any person to engage in the
27 business of conducting a lodging establishment unless such person shall
28 have in effect a valid license therefor issued by the secretary. Applications
29 for such licenses shall be made on forms prescribed by the secretary, and
30 each such application shall be accompanied by the appropriate license fee
31 required by subsection (c). Prior to the issuance of any such license, the
32 secretary shall inspect or cause to be inspected the lodging establishment
33 designated in the application, to determine that it complies with the
34 standards for lodging establishments promulgated pursuant to this act. If
35 such lodging establishment is found to be in compliance, and the
36 completed application and accompanying fees have been submitted, the
37 secretary shall issue the license. If such lodging establishment is found not
38 to be in compliance, the secretary shall deny such application after
39 providing notice and opportunity for a hearing in accordance with the
40 provisions of the Kansas administrative procedure act.

41 (b) Each license shall designate whether the licensed lodging unit is a
42 hotel, rooming house or boarding house. Any person obtaining a license to
43 engage in the business of conducting a rooming house or boarding house

1 shall not have the right to use the name "hotel" in connection with such
2 business. Every license issued hereunder shall be displayed conspicuously
3 in the lodging establishment for which it is issued, and no such license
4 shall be transferable to any other person or location. Whenever any such
5 license is lost, destroyed or mutilated, a duplicate license shall be issued to
6 any otherwise qualified licensee upon application therefor and the payment
7 of a fee in the amount of \$5.

8 (c) The fee for a license to conduct a lodging establishment in this
9 state for all or any part of any calendar year shall be \$30, except that the
10 fee for any lodging establishment containing 10 sleeping rooms shall be
11 \$40 and for every additional 10 rooms therein, an additional fee of \$10
12 shall be charged. All lodging establishments which are newly constructed,
13 newly converted to use as a lodging establishment or have a change of
14 ownership shall pay an application fee which may be adjusted in
15 accordance with the type of establishment or based on other criteria as
16 determined by the secretary, but in no event shall any application fee
17 exceed \$200 in addition to the license fee.

18 (d) Any lodging establishment that also has a food establishment
19 license shall have a fee set by rule and regulation of the secretary. Such fee
20 shall not exceed the fees for lodging establishments as provided in
21 subsection (c).

22 (e) A guest house shall not be required to have a lodging license, but
23 such guest house shall be required to be inspected if the secretary receives
24 a complaint concerning such guest house and shall be subject to the
25 temporary closure provisions of ~~subsection (b)~~ of K.S.A. 36-515a(b), and
26 amendments thereto.

27 (f) A lodging establishment operated in connection with any premises
28 licensed, registered or permitted by the secretary of health and
29 environment, the secretary ~~of social and rehabilitation services for~~
30 *children and families*, the secretary of corrections or the secretary ~~of aging~~
31 *for aging and disability services*, which is inspected and regulated
32 pursuant to the respective law or rule and regulation of such secretary,
33 shall not require a license as provided in this section, and the secretary of
34 agriculture shall not be authorized to inspect or cause such premises to be
35 inspected. This subsection shall not apply to a lodging establishment
36 whose primary function is not in connection with any premises licensed,
37 registered or permitted pursuant to the respective law or rule and
38 regulation of such secretary.

39 Sec. 6. K.S.A. 2014 Supp. 38-2006 is hereby amended to read as
40 follows: 38-2006. The secretary ~~of social and rehabilitation services for~~
41 *children and families* shall advise and consult with the secretary of health
42 and environment on issues relating to children's health status.

43 Sec. 7. K.S.A. 2014 Supp. 38-2212 is hereby amended to read as

1 follows: 38-2212. (a) *Principle of appropriate access.* Information
2 contained in confidential agency records concerning a child alleged or
3 adjudicated to be in need of care may be disclosed as provided in this
4 section. Disclosure shall in all cases be guided by the principle of
5 providing access only to persons or entities with a need for information
6 that is directly related to achieving the purposes of this code.

7 (b) *Free exchange of information.* Pursuant to K.S.A. 2014 Supp. 38-
8 2210, and amendments thereto, the secretary and juvenile intake and
9 assessment agencies shall participate in the free exchange of information
10 concerning a child who is alleged or adjudicated to be in need of care.

11 (c) *Necessary access.* The following persons or entities shall have
12 access to information from agency records. Access shall be limited to
13 information reasonably necessary to carry out their lawful responsibilities,
14 to maintain their personal safety and the personal safety of individuals in
15 their care, or to educate, diagnose, treat, care for or protect a child alleged
16 to be in need of care. Information authorized to be disclosed pursuant to
17 this subsection shall not contain information which identifies a reporter of
18 a child who is alleged or adjudicated to be a child in need of care.

19 (1) A child named in the report or records, a guardian ad litem
20 appointed for the child and the child's attorney.

21 (2) A parent or other person responsible for the welfare of a child, or
22 such person's legal representative.

23 (3) A court-appointed special advocate for a child, a citizen review
24 board or other advocate which reports to the court.

25 (4) A person licensed to practice the healing arts or mental health
26 profession in order to diagnose, care for, treat or supervise: (A) A child
27 whom such service provider reasonably suspects may be in need of care;
28 (B) a member of the child's family; or (C) a person who allegedly abused
29 or neglected the child.

30 (5) A person or entity licensed or registered by the secretary of health
31 and environment or approved by the secretary ~~of social and rehabilitation~~
32 ~~services for children and families~~ to care for, treat or supervise a child in
33 need of care.

34 (6) A coroner or medical examiner when such person is determining
35 the cause of death of a child.

36 (7) The state child death review board established under K.S.A. 22a-
37 243, and amendments thereto.

38 (8) An attorney for a private party who files a petition pursuant to
39 ~~subsection (b) of~~ K.S.A. 2014 Supp. 38-2233(b), and amendments thereto.

40 (9) A foster parent, prospective foster parent, permanent custodian,
41 prospective permanent custodian, adoptive parent or prospective adoptive
42 parent. In order to assist such persons in making an informed decision
43 regarding acceptance of a particular child, to help the family anticipate

1 problems which may occur during the child's placement, and to help the
2 family meet the needs of the child in a constructive manner, the secretary
3 shall seek and shall provide the following information to such person's as
4 the information becomes available to the secretary:

5 (A) Strengths, needs and general behavior of the child;

6 (B) circumstances which necessitated placement;

7 (C) information about the child's family and the child's relationship to
8 the family which may affect the placement;

9 (D) important life experiences and relationships which may affect the
10 child's feelings, behavior, attitudes or adjustment;

11 (E) medical history of the child, including third-party coverage which
12 may be available to the child; and

13 (F) education history, to include present grade placement, special
14 strengths and weaknesses.

15 (10) The state protection and advocacy agency as provided by
16 ~~subsection (a)(10) of K.S.A. 65-5603(a)(10) or subsection (a)(2)(A) and~~
17 ~~(B) of K.S.A. 74-5515(a)(2)(A) and (B)~~, and amendments thereto.

18 (11) Any educational institution to the extent necessary to enable the
19 educational institution to provide the safest possible environment for its
20 pupils and employees.

21 (12) Any educator to the extent necessary to enable the educator to
22 protect the personal safety of the educator and the educator's pupils.

23 (13) Any other federal, state or local government executive branch
24 entity or any agent of such entity, having a need for such information in
25 order to carry out such entity's responsibilities under the law to protect
26 children from abuse and neglect.

27 (d) *Specified access.* The following persons or entities shall have
28 access to information contained in agency records as specified.
29 Information authorized to be disclosed pursuant to this subsection shall not
30 contain information which identifies a reporter of a child who is alleged or
31 adjudicated to be a child in need of care.

32 (1) Information from confidential agency records of the *Kansas*
33 ~~department of social and rehabilitation services for children and families~~, a
34 law enforcement agency or any juvenile intake and assessment worker of a
35 child alleged or adjudicated to be in need of care shall be available to
36 members of the standing house or senate committee on judiciary, house
37 committee on corrections and juvenile justice, house committee on
38 appropriations, senate committee on ways and means, legislative post audit
39 committee and any joint committee with authority to consider children's
40 and families' issues, when carrying out such member's or committee's
41 official functions in accordance with K.S.A. 75-4319, and amendments
42 thereto, in a closed or executive meeting. Except in limited conditions
43 established by $\frac{2}{3}$ of the members of such committee, records and reports

1 received by the committee shall not be further disclosed. Unauthorized
2 disclosure may subject such member to discipline or censure from the
3 house of representatives or senate. The secretary ~~of social and~~
4 ~~rehabilitation services for children and families~~ shall not summarize the
5 outcome of department actions regarding a child alleged to be a child in
6 need of care in information available to members of such committees.

7 (2) The secretary ~~of social and rehabilitation services for children~~
8 ~~and families~~ may summarize the outcome of department actions regarding
9 a child alleged to be a child in need of care to a person having made such
10 report.

11 (3) Information from confidential reports or records of a child alleged
12 or adjudicated to be a child in need of care may be disclosed to the public
13 when:

14 (A) The individuals involved or their representatives have given
15 express written consent; or

16 (B) the investigation of the abuse or neglect of the child or the filing
17 of a petition alleging a child to be in need of care has become public
18 knowledge, provided, however, that the agency shall limit disclosure to
19 confirmation of procedural details relating to the handling of the case by
20 professionals.

21 (e) *Court order.* Notwithstanding the provisions of this section, a
22 court of competent jurisdiction, after in camera inspection, may order
23 disclosure of confidential agency records pursuant to a determination that
24 the disclosure is in the best interests of the child who is the subject of the
25 reports or that the records are necessary for the proceedings of the court
26 and otherwise admissible as evidence. The court shall specify the terms of
27 disclosure and impose appropriate limitations.

28 (f) (1) Notwithstanding any other provision of law to the contrary,
29 except as provided in paragraph (4), in the event that child abuse or
30 neglect results in a child fatality or near fatality, reports or records of a
31 child alleged or adjudicated to be in need of care received by the secretary,
32 a law enforcement agency or any juvenile intake and assessment worker
33 shall become a public record and subject to disclosure pursuant to K.S.A.
34 45-215, and amendments thereto.

35 (2) Within seven days of receipt of a request in accordance with the
36 procedures adopted under K.S.A. 45-220, and amendments thereto, the
37 secretary shall notify any affected individual that an open records request
38 has been made concerning such records. The secretary or any affected
39 individual may file a motion requesting the court to prevent disclosure of
40 such record or report, or any select portion thereof. If the affected
41 individual does not file such motion within seven days of notification, and
42 the secretary has not filed a motion, the secretary shall release the reports
43 or records. If such motion is filed, the court shall consider the effect such

1 disclosure may have upon an ongoing criminal investigation, a pending
2 prosecution, or the privacy of the child, if living, or the child's siblings,
3 parents or guardians. The court shall make written findings on the record
4 justifying the closing of the records and shall provide a copy of the journal
5 entry to the affected parties and the individual requesting disclosure
6 pursuant to the Kansas open records act, K.S.A. 45-215 et seq., and
7 amendments thereto.

8 (3) For reports or records requested pursuant to this subsection, the
9 time limitations specified in this subsection shall control to the extent of
10 any inconsistency between this subsection and K.S.A. 45-218, and
11 amendments thereto. As used in this section, "near fatality" means an act
12 that, as certified by a person licensed to practice medicine and surgery,
13 places the child in serious or critical condition.

14 (4) Nothing in this subsection shall allow the disclosure of reports,
15 records or documents concerning the child and such child's biological
16 parents which were created prior to such child's adoption. Nothing herein
17 is intended to require that an otherwise privileged communication lose its
18 privileged character.

19 Sec. 8. K.S.A. 2014 Supp. 39-1702 is hereby amended to read as
20 follows: 39-1702. As used in this act:

21 (a) "Children and adolescents who require multiple levels and kinds
22 of specialized services which are beyond the capability of one agency"
23 means children and adolescents who are residents of Kansas, and with
24 respect to whom there is documentation that: (1) Various agencies have
25 acknowledged the need for a certain type of service and have taken action
26 to provide that level of care; (2) various agencies have collaborated to
27 develop a program plan to meet the needs of the child or adolescent; and
28 (3) various agencies have collaborated to develop programs and funding to
29 meet the need of the child or adolescent, and that existing or alternative
30 programs and funding have been exhausted or are insufficient or
31 inappropriate in view of the distinctive nature of the situation of the child
32 or adolescent.

33 (b) "Agency" means and includes county health departments, area
34 offices of the ~~Kansas department of social and rehabilitation services~~ *for*
35 *children and families*, district offices of the department of health and
36 environment, local offices of the department of labor, boards of education
37 of public school districts, community mental health centers, community
38 facilities for people with intellectual or developmental disabilities, or both,
39 district courts, county commissions, and law enforcement agencies.

40 (c) "Authorized decision makers" means agency representatives who
41 have the authority to commit the resources of the agency they represent in
42 the provision of services to any child or adolescent whose needs are
43 brought before a regional interagency council.

1 (d) "District court" means the chief judge for a judicial district.

2 (e) "Parent" means a natural parent, an adoptive parent, a stepparent,
3 a foster care provider of a child or adolescent for whom services are
4 needed from more than one agency, or a person acting as parent of a child
5 or adolescent for whom services are needed from more than one agency.

6 (f) "Person acting as parent" means a guardian or conservator, or a
7 person, other than a parent, who is liable by law to maintain, care for, or
8 support a child or adolescent, or who has actual care and custody of the
9 child or adolescent and is contributing the major portion of the cost of
10 support of the child or adolescent, or who has actual care and control of
11 the child or adolescent with the written consent of a person who has legal
12 custody of the child or adolescent, or who has been granted custody of the
13 child or adolescent, by a court of competent jurisdiction.

14 Sec. 9. K.S.A. 2014 Supp. 40-4702 is hereby amended to read as
15 follows: 40-4702. (a) The governor of the state of Kansas shall appoint a
16 committee which shall be known as the Kansas business health policy
17 committee, whose purpose is to explore opportunities and encourage
18 employer participation in health plans developed by the committee for low
19 and modest wage employees of small employers.

20 (b) The Kansas business health policy committee, hereinafter referred
21 to as the health committee, shall consist of:

22 (1) The secretary of the department of commerce or the secretary's
23 designee;

24 ~~(2) the secretary of the department of social and rehabilitation~~
25 ~~services for children and families~~ or the secretary's designee;

26 (3) the commissioner of insurance or the commissioner's designee;

27 (4) one member appointed by the president of the senate;

28 (5) one member appointed by the speaker of the house of
29 representatives;

30 (6) one member appointed by the minority leader of the senate;

31 (7) one member appointed by the minority leader of the house of
32 representatives; and

33 (8) three members at large from the private sector appointed by the
34 governor.

35 The secretary of each state agency represented on this committee shall
36 provide such staff and other resources as the health committee may
37 require.

38 (c) (1) The initial meeting of the health committee shall be convened
39 within 60 days after the effective date of this act by the governor at a time
40 and place designated by the governor.

41 (2) Meetings of the health committee subsequent to its initial meeting
42 shall be held and conducted in accordance with policies and procedures
43 established by the health committee.

1 (3) Commencing at the time of the initial meeting of the health
2 committee, the powers, authorities, duties and responsibilities conferred
3 and imposed upon the health committee by this act shall be operative and
4 effective.

5 (d) The health committee shall develop and approve a request for
6 proposals for a qualified entity to serve as the Kansas business health
7 partnership, hereinafter referred to as health partnership, which shall
8 provide a mechanism to combine federal and state subsidies with
9 contributions from small employers and eligible employees to purchase
10 health insurance in accordance with guidelines developed by the health
11 committee.

12 (e) The health committee shall evaluate responses to the request for
13 proposals and select the qualified entity to serve as the health partnership.

14 (f) The health committee shall:

15 (1) Develop, approve and revise subsidy eligibility criteria provided
16 that:

17 (A) Low wage and modest wage employees of small employers shall
18 be eligible for subsidies if:

19 (i) The small employer has not previously offered health insurance
20 coverage within the two years next preceding the date upon which health
21 insurance is offered; or

22 (ii) the small employer has previously offered health insurance
23 coverage and a majority of such small employer's employees are low wage
24 or modest wage employees as defined in K.S.A. 40-4701, and amendments
25 thereto;

26 (B) any small employer's eligible employee with a child who is
27 eligible for coverage under the state childrens' health insurance program
28 established by K.S.A. 38-2001 et seq., and amendments thereto, or in the
29 state medical assistance program shall be eligible automatically for a
30 subsidy and shall be included in the determination of eligibility for the
31 small employer and its low and modest wage employees; and

32 (C) at least 70% of the small employer's eligible employees without
33 group health insurance coverage from another source are insured through
34 the partnership; and

35 (2) determine and arrange for eligibility determination for subsidies
36 of low wage or modest wage employees; and

37 (3) develop subsidy schedules based upon eligible employee wage
38 levels and family income; and

39 (4) be responsible for arranging for the provision of affordable health
40 care coverage for eligible employees of small employers and evaluating
41 and creating the opportunity to improve health care provided by plans in
42 the small group health insurance program.

43 (g) The health committee shall oversee and monitor the ongoing

1 operation of any subsidy program and the financial accountability of all
2 subsidy funds. If, in the judgment of the health committee, the entity
3 selected to serve as the health partnership fails to perform as intended, the
4 health committee may terminate its selection and designation of that entity
5 as the health partnership and may issue a new request for proposal and
6 select a different qualified entity to serve as the health partnership.

7 (h) The health committee is hereby authorized to accept funds from
8 the federal government, or its agencies, or any other source whatsoever for
9 research studies, investigation, planning and other purposes related to
10 implementation of the objectives of this act. Any funds so received shall be
11 deposited in the state treasury and shall be credited to a special revenue
12 fund which is hereby created and shall be known as the health committee
13 insurance fund and used in accordance with or direction of the contributing
14 federal agencies. Expenditures from such fund may be made for any
15 purpose in keeping with the responsibilities, functions and authority of the
16 department. Warrants on such fund shall be drawn in the same manner as
17 required of other state agencies upon vouchers approved by the secretary
18 of health and environment, or the secretary's designee, upon receiving
19 prior approval of the health committee.

20 (i) The health committee is authorized to develop policies for the
21 administration of the subsidy program and for the use of additional federal
22 or private funds to subsidize health insurance coverage for low and modest
23 wage employees of predominantly low-wage small employers. The health
24 committee shall be responsible for setting benefit levels and establishing
25 performance measures for health plans providing health care coverage for
26 this program that include quality, preventative health and other
27 supplementary measures. The health committee shall limit access to the
28 program subsidy to the projected annualized expenditure.

29 (j) The health committee is hereby authorized to organize, or cause to
30 be organized, one or more advisory committees. No member of any
31 advisory committee established under this subsection shall have previously
32 received or currently receive any payment or other compensation from the
33 health partnership. The membership of each advisory committee
34 established under this subsection shall contain at least one representative
35 who is a small employer and one representative who is an eligible
36 employee as defined in K.S.A. 40-4701, and amendments thereto, and one
37 representative of the insurance industry.

38 (k) The health committee shall report on an annual basis on the
39 following subjects:

- 40 (1) Quality assurance measures;
- 41 (2) disease prevention activities;
- 42 (3) disease management activities; and
- 43 (4) other activities or programs the committee decides to include.

1 Sec. 10. K.S.A. 2014 Supp. 59-29a24 is hereby amended to read as
2 follows: 59-29a24. (a) Any patient in the custody of the secretary ~~of social~~
3 ~~and rehabilitation for aging and disability~~ services pursuant to K.S.A. 59-
4 29a01 et seq., and amendments thereto, prior to filing any civil action
5 naming as the defendant pursuant to the rules of civil procedure, the state
6 of Kansas, any political subdivision of the state of Kansas, any public
7 official, the secretary ~~of social and rehabilitation for aging and disability~~
8 services or an employee of the ~~Kansas department of social and~~
9 ~~rehabilitation for aging and disability~~ services, while such employee is
10 engaged in the performance of such employee's duty, shall be required to
11 have exhausted such patient's administrative remedies, established by
12 procedures adopted pursuant to ~~subsection (d) of~~ K.S.A. 59-29a22(d), and
13 amendments thereto, concerning such civil action. Upon filing a petition in
14 a civil action, such patient shall file with such petition proof that the
15 administrative remedies have been exhausted.

16 (b) Notwithstanding any filing fee, or any portion thereof, that may
17 have been paid, the court shall dismiss the case at any time if the court
18 determines that:

19 (1) The allegation of poverty is untrue, notwithstanding the fact that a
20 filing fee, or any portion thereof has been paid; or

21 (2) the action or appeal:

22 (A) Is frivolous or malicious;

23 (B) fails to state a claim on which relief may be granted; or

24 (C) seeks monetary relief against a defendant who is immune from
25 such relief.

26 (c) In no event shall such patient bring a civil action or appeal a
27 judgment in a civil action or proceeding under this section if such patient
28 has, on three or more prior occasions, while in the custody of the secretary
29 ~~of social and rehabilitation for aging and disability~~ services pursuant to
30 K.S.A. 59-29a01 et seq., and amendments thereto, brought an action or
31 appeal in a court of the state of Kansas or of the United States that was
32 dismissed on the grounds that it was frivolous, malicious or failed to state
33 a claim upon which relief may be granted, unless the patient is under
34 imminent danger of serious physical injury.

35 (d) The provisions of this section shall not apply to a writ of habeas
36 corpus.

37 Sec. 11. K.S.A. 2014 Supp. 65-689 is hereby amended to read as
38 follows: 65-689. (a) It shall be unlawful for any person to engage in the
39 business of conducting a food establishment or food processing plant
40 unless such person shall have in effect a valid license therefor issued by
41 the secretary.

42 (b) Applications for such licenses shall be made on forms prescribed
43 by the secretary, and each such application shall be accompanied by an

1 application fee and by a license fee. Prior to the issuance of any such
2 license, the secretary shall inspect or cause to be inspected the food
3 establishment or food processing plant designated in the application, to
4 determine that it complies with rules and regulations adopted pursuant to
5 the food, drug and cosmetic act, and amendments thereto. If the food
6 establishment or food processing plant is found to be in compliance, and
7 the completed application and accompanying fees have been submitted,
8 the secretary shall issue the license. If the food establishment or food
9 processing plant is found not to be in compliance, the secretary shall deny
10 the application for a license after providing notice and opportunity for a
11 hearing in accordance with the provisions of the Kansas administrative
12 procedure act.

13 (c) Every license issued hereunder shall be displayed conspicuously
14 in the food establishment or food processing plant for which it is issued,
15 and no such license shall be transferable to any other person or location.
16 Whenever any such license is lost, destroyed or mutilated, a duplicate
17 license shall be issued to any otherwise qualified licensee upon application
18 therefor and the payment of a fee in the amount of \$5.

19 (d) A license shall not be required by:

20 (1) A plant or facility registered or licensed by the department of
21 agriculture pursuant to article 7 of chapter 65 of the Kansas Statutes
22 Annotated, and amendments thereto, or licensed or registered by the
23 department of agriculture pursuant to article 6a of chapter 65 of the Kansas
24 Statutes Annotated, and amendments thereto, shall not be required to
25 obtain a separate license pursuant to this section if the inspections
26 conducted under the respective acts encompass all operations of the
27 facility.

28 (2) A registered nonprofit organization that provides food without
29 charge solely to people who are food insecure, including, but not limited to,
30 soup kitchens and food pantries.

31 (3) A location where prepackaged individual meals are distributed to
32 persons eligible under the federal older Americans act.

33 (4) A person who produces food for distribution directly to the end
34 consumer, if such food does not require time and temperature control for
35 safety or specialized processing, as determined by the secretary.

36 (5) A person who serves food exclusively on interstate conveyances
37 or common carriers.

38 (6) A person operating a food establishment for less than seven days
39 in any calendar year.

40 (7) A person who prepares, serves or sells food for the sole purpose
41 of soliciting funds to be used for community or humanitarian purposes or
42 educational or youth activities.

43 (8) A person operating a food vending machine, if the food vending

1 machine company:

2 (A) Is licensed as a food establishment, or if located in another state,
3 licensed according to the laws of such state;

4 (B) maintains, and makes available to the secretary, a current record
5 of the location of each food vending machine it operates or services; and

6 (C) conspicuously displays the company name, phone number and
7 any additional information the secretary may require on each such vending
8 machine.

9 (9) A person providing only complimentary coffee to its patrons
10 whose primary business is unrelated to operating a food establishment or
11 food processing plant.

12 (10) A person operating a farm winery, as defined in K.S.A. 41-102,
13 and amendments thereto, who does not produce or offer any food products
14 other than wine produced at such farm winery.

15 (11) A retailer, as defined in K.S.A. 41-102, and amendments thereto,
16 that sells only alcoholic liquors and cereal malt beverages.

17 (12) A food establishment that sells or offers for sale only packaged
18 foods that are non-hazardous and are received directly from a licensed
19 food production facility in packaged form, if such food establishment
20 contains less than 200 cubic feet as measured pursuant to ~~subsection (e)~~ of
21 K.S.A. 65-688(e), and amendments thereto.

22 (13) A person who provides food samples, without charge, to
23 promote, advertise or compliment the sale of food or associated food
24 preparation equipment.

25 (14) A guest house, as defined in K.S.A. 36-501, and amendments
26 thereto.

27 (e) The exemption provided to those entities provided in subsection
28 (d) shall not be exempt from inspection or regulation when a violation is
29 observed or reported to the secretary.

30 (f) A food establishment operated in connection with any premises
31 licensed, registered or permitted by the secretary of health and
32 environment, the secretary ~~of social and rehabilitation services for~~
33 *children and families*, the secretary of corrections or the secretary ~~of aging~~
34 *for aging and disability services*, which is inspected and regulated
35 pursuant to the respective law or rule and regulation of such secretary,
36 shall not require a license, and the secretary of agriculture shall not be
37 authorized to inspect or cause such premises to be inspected. This
38 subsection shall not apply to a food establishment whose primary function
39 is not in connection with any premises licensed, registered or permitted
40 pursuant to the respective law or rule and regulation of such secretary.

41 Sec. 12. K.S.A. 2014 Supp. 65-6233 is hereby amended to read as
42 follows: 65-6233. (a) The department of health and environment, in
43 conjunction with the *Kansas* department ~~of social and rehabilitation~~ *for*

1 *aging and disability* services, shall review and update its rules and
2 regulations establishing eligibility requirements for the Kansas program of
3 medical assistance established in accordance with title XIX of the federal
4 social security act, 42 U.S.C. § 1396 et seq. Such review shall include the
5 establishment of a procedure which permits the holder of a life insurance
6 policy which has a cash surrender value to give the Kansas program of
7 medical assistance established in accordance with title XIX of the federal
8 social security act a collateral assignment of the proceeds of such life
9 insurance policy. The collateral assignment may be used by the insured in
10 lieu of any requirement that such life insurance policy be sold in order for
11 the insured to meet any property ownership limitation contained in any
12 eligibility requirement for participation in the Kansas program of medical
13 assistance established in accordance with title XIX of the federal social
14 security act. The collateral assignment shall be for an amount not to
15 exceed the proceeds of such policy necessary to reimburse the Kansas
16 program of medical assistance established in accordance with title XIX of
17 the federal social security act for any amount paid by such program for
18 medical benefits provided to the insured. The collateral assignment shall
19 be irrevocable as established by a written agreement binding on the holder
20 of the life insurance policy to not affect or otherwise use the cash
21 surrender value of such policy after the irrevocable assignment pursuant to
22 rules and regulations promulgated by the secretary of the department of
23 health and environment.

24 (b) The department of health and environment is hereby directed to
25 seek any necessary waivers from program requirements of the federal
26 government as may be needed to carry out the provisions of this section
27 and to maximize federal matching and other funds with respect to the
28 provisions of this section. If the department of health and environment
29 determines that one or more waivers from program requirements of the
30 federal government are needed to carry out the provisions of this section,
31 the department of health and environment shall implement the provisions
32 of this section only if such waivers to federal program requirements have
33 been obtained from the federal government.

34 (c) (1) Except as provided in paragraph (2), the review and update of
35 the rules and regulations establishing eligibility requirements for the
36 Kansas program of medical assistance established in accordance with title
37 XIX of the federal social security act, 42 U.S.C. § 1396 et seq., shall be
38 completed and the revisions of such rules and regulations shall be adopted
39 in accordance with the rules and regulations filing act no later than 12
40 calendar months following the date of receipt of the waivers required
41 under subsection (b).

42 (2) If the department of health and environment determines that no
43 waivers are required to implement the provisions of subsection (a), the

1 review and update of the rules and regulations establishing eligibility
2 requirements for the Kansas program of medical assistance established in
3 accordance with title XIX of the federal social security act, 42 U.S.C. §
4 1396 et seq., shall be completed and the revisions of such rules and
5 regulations shall be adopted in accordance with the rules and regulations
6 filing act no later than 12 calendar months following the effective date of
7 this act.

8 Sec. 13. K.S.A. 2014 Supp. 75-7d01 is hereby amended to read as
9 follows: 75-7d01. (a) There is hereby created in the office of the attorney
10 general a batterer intervention program certification unit.

11 (b) Except as otherwise provided by law, the books, documents,
12 papers, records or other sources of information obtained and the
13 investigations conducted by the unit shall be confidential as required by
14 state or federal law.

15 (c) The purpose of the batterer intervention program certification unit
16 is to certify and inspect batterer intervention programs in Kansas. To
17 accomplish this purpose, upon request of the unit, the unit shall have
18 access to all records of reports, investigation documents and written
19 reports of findings related to confirmed cases of domestic violence or
20 exploitation of persons or cases in which there is reasonable suspicion to
21 believe domestic violence has occurred which are received or generated by
22 the ~~Kansas department of social and rehabilitation services, for children~~
23 ~~and families, Kansas department on aging for aging and disability~~
24 ~~services, department of health and environment or Kansas bureau of~~
25 investigation.

26 (d) The attorney general shall develop a set of tools, methodologies,
27 requirements and forms for the domestic violence offender assessment
28 required by ~~subsection (p) of~~ K.S.A. 2014 Supp. 21-6604(p), and
29 amendments thereto. The batterer intervention program tools,
30 methodologies, requirements and forms shall be developed in consultation
31 with the agency certified by the centers for disease control and prevention
32 and the department of health and human services as the domestic violence
33 coalition for the state and with local domestic violence victims' services
34 organizations.

35 (e) The attorney general may appoint a panel to assist the attorney
36 general by making recommendations regarding the:

37 (1) Content and development of a batterer intervention certification
38 program; and

39 (2) rules and regulations.

40 (f) The attorney general may appoint such advisory committees as the
41 attorney general deems necessary to carry out the purposes of the batterer
42 intervention program certification act. Except as provided in K.S.A. 75-
43 3212, and amendments thereto, no member of any such advisory

1 committee shall receive any compensation, subsistence, mileage or other
2 allowance for serving on an advisory committee or attending any meeting
3 thereof.

4 Sec. 14. K.S.A. 75-5308d is hereby amended to read as follows: 75-
5 5308d. Mental health and retardation services created by the provisions of
6 K.S.A. 75-5308b is hereby abolished and all of the powers, duties and
7 functions of such division are transferred to and conferred and imposed
8 upon mental health and developmental disabilities established pursuant
9 K.S.A. 75-5308e, *and amendments thereto*, under the supervision of the
10 secretary ~~of social and rehabilitation for aging and disability~~ services as
11 part of the *Kansas department of social and rehabilitation for aging and*
12 *disability* services. The commissioner of mental health and retardation
13 services created by K.S.A. 75-5308b is hereby abolished and all of the
14 powers, duties and functions of such commissioner are transferred to and
15 conferred and imposed upon the commissioner of mental health and
16 developmental disabilities appointed pursuant to K.S.A. 75-5308e, *and*
17 *amendments thereto*.

18 Sec. 15. K.S.A. 75-5309 is hereby amended to read as follows: 75-
19 5309. Except as otherwise provided in this order, or in K.S.A. 75-5310,
20 *and amendments thereto*, the secretary ~~of social and rehabilitation services~~
21 *for children and families* shall appoint, subject to the Kansas civil service
22 act, all subordinate officers and employees of the *Kansas department of*
23 ~~social and rehabilitation services for children and families~~, and all such
24 subordinate officers and employees shall be within the classified service.

25 Sec. 16. K.S.A. 2014 Supp. 75-5321a is hereby amended to read as
26 follows: 75-5321a. The secretary ~~of social and rehabilitation services for~~
27 *children and families* shall take necessary actions to transfer the
28 administration of certain long-term care programs and services to the
29 secretary ~~of aging for aging and disability services~~. The programs shall
30 include the nursing facility services payment program, the home and
31 community based services for the frail elderly waiver program, the case
32 management for the frail elderly program and the income eligible (home
33 care) program. Excluding nursing facility programs, the programs to be
34 transferred shall not include long-term care programs for individuals under
35 the age of 65 with mental illness, intellectual disability, other mental
36 disabilities or physical disabilities. All such transfers shall be made only in
37 accordance with federal grant requirements related to such programs.

38 Sec. 17. K.S.A. 75-5364 is hereby amended to read as follows: 75-
39 5364. (a) As used in this section:

40 (1) "Plan" means the electronic funds transfer remittance plan
41 established under this section.

42 (2) "Secretary" means the secretary ~~of social and rehabilitation~~
43 ~~services for children and families~~.

1 (b) ~~The secretary of social and rehabilitation services for children~~
2 ~~and families~~, with the assistance of the director of accounts and reports,
3 shall apply for approval from the federal government to develop and
4 implement in accordance with this section an electronic funds transfer
5 remittance plan which will provide that monetary payments, food stamps
6 and medical assistance benefits made to each recipient of public assistance
7 under article 7 of chapter 39 of the Kansas Statutes Annotated, and ~~aets~~
8 ~~amendatory of the provisions thereof or supplemental amendments~~ thereto,
9 be made through an electronic funds transfer remittance system. On and
10 after January 1, 1995, all monetary payments, food stamps and medical
11 assistance benefits made to public assistance recipients in those counties in
12 this state in which the KanWork program has been implemented and which
13 have been selected by the secretary for the purposes of this section shall be
14 made through such electronic funds transfer remittance plan. The plan
15 shall provide that on and after January 1, 1995, each public assistance
16 recipient, or a person on behalf of the public assistance recipient as
17 authorized by the secretary, who resides in a county in this state in which
18 the KanWork program has been implemented and which has been selected
19 by the secretary for the purposes of this section shall be provided benefits
20 under this plan.

21 (c) On or before December 31, 1995, the secretary of social and
22 rehabilitation services shall submit to the governor and to the legislature a
23 report describing how the electronic funds transfer remittance plan was
24 implemented, the results of the operation of the plan during the pilot
25 phase, including any cost savings which have occurred as a result of the
26 plan, and any recommendations which the secretary may have with respect
27 to the administration of the plan.

28 Sec. 18. K.S.A. 2014 Supp. 75-6524 is hereby amended to read as
29 follows: 75-6524. (a) In the coverage for the next health plan coverage
30 year commencing on January 1, 2011, the state employees health care
31 commission shall provide for the coverage of services for the diagnosis
32 and treatment of autism spectrum disorder in any covered individual
33 whose age is less than 19 years. Such coverage shall be subject to the
34 following terms and conditions:

35 (1) Such coverage shall be provided in a manner determined in
36 consultation with the autism services provider and the patient. Services
37 provided by an autism services provider under this section shall include
38 applied behavioral analysis when required by a licensed physician,
39 licensed psychologist or licensed specialist clinical social worker but
40 otherwise shall be limited to those services prescribed or ordered by a
41 licensed physician, licensed psychologist or licensed specialist clinical
42 social worker. Services provided pursuant to this paragraph shall be those
43 services which are or have been recognized by peer reviewed literature as

1 providing medical benefit to the patient based upon the patient's particular
2 autism spectrum disorder.

3 (2) Such coverage may be subject to appropriate annual deductibles
4 and coinsurance provisions as are consistent with those established for
5 other physical illness benefits under the state employees health plan.

6 (3) Coverage for benefits for any covered person diagnosed with one
7 or more autism spectrum disorders and whose age is between birth and
8 less than seven years shall not exceed \$36,000 per year.

9 (4) Coverage for benefits for any covered person diagnosed with one
10 or more autism spectrum disorders and whose age is at least seven years
11 and less than 19 years shall not exceed \$27,000 per year.

12 (5) Coverages required under paragraphs (3) and (4) shall be subject
13 to the same copays, deductibles and dollar limits as benefits for physical
14 illness; and such other utilization or benefit limits as the state employees
15 health care commission may determine.

16 (6) Reimbursement shall be allowed only for services provided by a
17 provider licensed, trained and qualified to provide such services or by an
18 autism specialist or an intensive individual service provider as such terms
19 are defined by the *Kansas department of social and rehabilitation for*
20 *aging and disability* services Kansas autism waiver as it exists on July 1,
21 2010.

22 (7) Any insurer or other entity which administers claims for services
23 provided for the treatment of autism spectrum disorder under this section,
24 and amendments thereto, shall have the right and obligation to:

25 (A) Review utilization of such services; and

26 (B) deny any claim for services based upon medical necessity or a
27 determination that the covered individual has reached the maximum
28 medical improvement for the covered individual's autism spectrum
29 disorder.

30 (b) For the purposes of this section:

31 (1) "Applied behavior analysis" means the design, implementation
32 and evaluation of environmental modifications, using behavioral stimuli
33 and consequences, to produce socially significant improvement in human
34 behavior, including the use of direct observation, measurement and
35 functional analysis of the relationship between environment and behavior.

36 (2) "Autism spectrum disorder" means the following disorders within
37 the autism spectrum: Autistic disorder, Asperger's syndrome and pervasive
38 developmental disorder not otherwise specified, as such terms are
39 specified in the diagnostic and statistical manual of mental disorders,
40 fourth edition, text revision (DSM-IV-TR), of the American psychiatric
41 association, as published in May, 2000, or later versions as established in
42 rules and regulations adopted by the behavioral sciences regulatory board
43 pursuant to K.S.A. 74-7507, and amendments thereto.

1 (3) "Diagnosis of autism spectrum disorder" means any medically
2 necessary assessment, evaluation or test to determine whether an
3 individual has an autism spectrum disorder.

4 (c) (1) Pursuant to the provisions of K.S.A. 40-2249a, and
5 amendments thereto, on or before March 1, 2012, the state employees
6 health care commission shall submit to the president of the senate and to
7 the speaker of the house of representatives, a report including the
8 following information pertaining to the mandated coverage for autism
9 spectrum disorder provided during the plan year commencing on January
10 1, 2011, and ending on December 31, 2011:

11 (A) The impact that the mandated coverage for autism spectrum
12 disorder required by subsection (a) has had on the state health care benefits
13 program;

14 (B) data on the utilization of coverage for autism spectrum disorder
15 by covered individuals and the cost of providing such coverage for autism
16 spectrum disorder; and

17 (C) a recommendation whether such mandated coverage for autism
18 spectrum disorder should continue for the state health care benefits
19 program or whether additional utilization and cost data is required.

20 (2) At the next legislative session following receipt of the report
21 required in paragraph (1), the legislature may consider whether or not to
22 require the coverage for autism spectrum disorder required by subsection
23 (a) to be included in any individual or group health insurance policy,
24 medical service plan, contract, hospital service corporation contract,
25 hospital and medical service corporation contract, fraternal benefit society
26 or health maintenance organization which provides coverage for accident
27 and health services and which is delivered, issued for delivery, amended or
28 renewed in this state on or after July 1, 2013.

29 Sec. 19. K.S.A. 2014 Supp. 75-7033 is hereby amended to read as
30 follows: 75-7033. On and after July 1, 1997:

31 (a) In order to provide technical assistance to communities, help
32 facilitate community collaboration and assist in coordinating a statewide
33 system of community based service providers, pursuant to K.S.A. 75-
34 7024, and amendments thereto, the commissioner of juvenile justice shall
35 appoint a community planning team convener and a community planning
36 team facilitator in each judicial district. The commissioner may appoint a
37 convener and facilitator for a multiple district planning team, if, in the
38 commissioner's opinion, such multiple district planning team best furthers
39 the purposes of the juvenile justice reform act. The convener and facilitator
40 may be compensated by the grant funds. Upon request of the board of
41 county commissioners of any county, the commissioner of juvenile justice
42 may authorize such county to cooperate as a member of a community
43 planning team in a judicial district other than the judicial district in which

1 such county is located. If the corporate limits of a city extend into more
2 than one judicial district and upon request of the board of county
3 commissioners of any county in which such city is located, the
4 commissioner of juvenile justice may authorize such city to participate as a
5 member of a community planning team of and be included in the plan for
6 the judicial district in which the majority of the population of such city is
7 located.

8 (b) The community planning team convener shall invite
9 representatives from the following groups and agencies to be a part of the
10 community planning team: The courts, court services, public education,
11 juvenile community correctional services, the county or district attorney,
12 the public defender's office or private defense counsel, law enforcement,
13 juvenile detention, prevention services, health care professionals, mental
14 health services, juvenile intake and assessment, municipal officials, county
15 officials, private service providers, the department ~~of social and~~
16 ~~rehabilitation services for children and families~~, the business community,
17 the religious community, youth and such other representatives as the
18 convener and commissioner deem necessary. The community planning
19 team convener may invite the entire membership of the corrections
20 advisory board, as established in K.S.A. 75-5297, and amendments
21 thereto, and the juvenile corrections advisory board, as established by
22 K.S.A. 75-7044, and amendments thereto, to be a part of the community
23 planning team.

24 (c) The commissioner, or the commissioner's designee shall serve as
25 an ex officio member of each community planning team.

26 (d) All proceedings of the community planning team and any
27 committee or subcommittee of the team shall be open to the public in
28 accordance with and subject to the provisions of K.S.A. 75-4317 to 75-
29 4320, inclusive, and amendments thereto. The records of the community
30 planning team shall be open to public inspection at all reasonable times.

31 (e) Between July 1, 1997, and June 30, 1999, the community
32 planning team shall engage in strategic planning to develop programs,
33 services and placement options as are necessary and appropriate for each
34 judicial district's juvenile justice program consistent with planning
35 guidelines developed by the commissioner. The commissioner shall design
36 the planning process to empower communities to develop community-
37 based programs, services and placements sufficient to address juvenile
38 crime and to appropriately provide programs and services to prevent
39 juvenile crime. The commissioner shall develop an action plan to guide
40 implementation of community planning. The action plan shall establish a
41 schedule for the planning process and shall clearly state desired outcomes
42 of the planning process. Before implementation of the community
43 planning process, the commissioner shall submit the proposed action plan

1 to the joint committee on corrections and juvenile justice oversight for
2 review. The commissioner shall also provide such committee with regular
3 progress reports on the status of the planning process. The primary
4 purposes of the community planning process shall be to:

5 (1) Foster collaboration among stakeholders in the juvenile justice
6 system;

7 (2) accurately assess community risk factors affecting juveniles;

8 (3) determine community priorities to respond to juvenile crime and
9 the risk factors affecting juveniles;

10 (4) develop programs, services and placements, with sufficient
11 capacity, to appropriately hold juvenile offenders in the community
12 accountable for behavior which violates the law;

13 (5) provide communities with assistance in developing juvenile
14 justice programs which respond to community needs and priorities and
15 which are capable of achieving desired outcomes, and in identifying
16 resources necessary to provide such programs;

17 (6) encourage the staffing of juvenile justice programs with
18 appropriately trained personnel; and

19 (7) provide communities with technical assistance, as needed, to
20 achieve desired planning outcomes.

21 (f) The commissioner shall provide training and expertise for
22 communities during the strategic planning process of the community
23 planning team.

24 (g) On July 1, 1999, each judicial district, multiple judicial district or
25 judicial districts and cities and counties cooperating pursuant to subsection
26 (a) shall have developed and be prepared to implement a juvenile justice
27 program. On or before June 30, 1999, such program shall be accredited by
28 the commissioner pursuant to rules and regulations adopted by the
29 commissioner.

30 (h) Each juvenile justice program shall include, but not be limited to,
31 local prevention services, juvenile intake and assessment, juvenile
32 detention and attendant care, immediate intervention programs, aftercare
33 services, graduated sanctions programs, probation programs, conditional
34 release programs, sanctions for violations of probation terms or programs,
35 sanctions for violations of conditional release programs and out-of-home
36 placements.

37 (i) Each juvenile justice program shall demonstrate that in the judicial
38 district is a continuum of community based placement options with
39 sufficient capacity to accommodate community needs.

40 (j) Each juvenile justice program shall participate in the juvenile
41 justice information system, intake and assessment system and the
42 utilization of a standardized risk assessment data.

43 (k) (1) There is hereby created in the state treasury a juvenile justice

1 community planning fund. Money credited to the fund shall be used solely
2 for the purpose of making grants to community planning teams, as
3 established in this section, to assist with the community planning process
4 of determining juvenile justice programs for the judicial district.

5 (2) All expenditures from the juvenile justice community planning
6 fund shall be made in accordance with appropriations acts upon warrants
7 of the director of accounts and reports issued pursuant to vouchers
8 approved by the commissioner of juvenile justice or by a person or persons
9 designated by the commissioner.

10 (3) The commissioner of juvenile justice may apply for, receive and
11 accept money from any source for the purposes for which money in the
12 juvenile justice community planning fund may be expended. Upon receipt
13 of any such money, the commissioner shall remit the entire amount to the
14 state treasurer in accordance with the provisions of K.S.A. 75-4215, and
15 amendments thereto. Upon receipt of each such remittance, the state
16 treasurer shall deposit the entire amount in the state treasury to the credit
17 of the juvenile justice community planning fund.

18 (4) On or before the 10th of each month, the director of accounts and
19 reports shall transfer from the state general fund to the juvenile justice
20 community planning fund interest earnings based on:

21 (A) The average daily balance of moneys in the juvenile justice
22 community planning fund for the preceding month; and

23 (B) the net earnings rate of the pooled money investment portfolio for
24 the preceding month.

25 (1) (1) There is hereby created in the state treasury a juvenile justice
26 community initiative fund. Money credited to the fund shall be used solely
27 for the purpose of making grants to communities to assist in supporting
28 field services, case management services and juvenile justice programs,
29 services and placements in the judicial district.

30 (2) All expenditures from the juvenile justice community initiative
31 fund shall be made in accordance with appropriations acts upon warrants
32 of the director of accounts and reports issued pursuant to vouchers
33 approved by the commissioner of juvenile justice or by a person or persons
34 designated by the commissioner.

35 (3) The commissioner of juvenile justice may apply for, receive and
36 accept money from any source for the purposes for which money in the
37 juvenile justice community initiative fund may be expended. Upon receipt
38 of any such money, the commissioner shall remit the entire amount to the
39 state treasurer in accordance with the provisions of K.S.A. 75-4215, and
40 amendments thereto. Upon receipt of each such remittance, the state
41 treasurer shall deposit the entire amount in the state treasury to the credit
42 of the juvenile justice community initiative fund.

43 (4) On or before the 10th of each month, the director of accounts and

1 reports shall transfer from the state general fund to the juvenile justice
2 community initiative fund interest earnings based on:

3 (A) The average daily balance of moneys in the juvenile justice
4 community initiative fund for the preceding month; and

5 (B) the net earnings rate of the pooled money investment portfolio for
6 the preceding month.

7 Sec. 20. K.S.A. 76-157 is hereby amended to read as follows: 76-157.

8 Whenever a blind person has been an actual resident of the state for one
9 year next preceding, and a student in actual attendance at a community
10 junior college in the state or at a college, university, technical or
11 professional school located in this state, and authorized by law to grant
12 degrees, other than an institution established for the regular instruction of
13 the blind, and such student shall be designated by the secretary ~~of social
14 and rehabilitation services for children and families~~ as a fit person to
15 receive and as one who ought to receive the aid hereinafter provided for,
16 ~~said~~ the secretary shall employ persons to read to such student from
17 textbooks and pamphlets used by such students in ~~his or her~~ *such student's*
18 studies at such college, university, or school.

19 Sec. 21. K.S.A. 76-158 is hereby amended to read as follows: 76-158.

20 The secretary ~~of social and rehabilitation services for children and families~~
21 is hereby authorized and empowered to select such persons as are entitled
22 to the benefits of this act in the several colleges, universities or schools.
23 The secretary ~~of social and rehabilitation services for children and families~~
24 shall not furnish a reader to any blind person who is not regularly
25 matriculated; who is not in good and regular standing; who is not working
26 for a degree from the institution in which ~~he or she~~ *such person* is
27 matriculated, and who is not doing the work regularly prescribed by the
28 institution for the degree for which ~~he or she~~ *such person* is a candidate,
29 and after making such selection the secretary ~~of social and rehabilitation
30 services for children and families~~ is authorized to name and designate
31 some suitable and capable person to read to such blind student from
32 textbooks and pamphlets used by ~~him or her~~ *such person* in studies in such
33 college, university, or school and to fix the pay to be received by such
34 reader for such services.

35 Sec. 22. K.S.A. 76-12a24 is hereby amended to read as follows: 76-

36 12a24. The secretary ~~of social and rehabilitation for aging and disability
37 services~~ is authorized to enter into an agreement with the secretary of
38 corrections concerning the management and utilization of buildings and
39 land currently not being used at state institutions under the authority of the
40 secretary ~~of social and rehabilitation for aging and disability~~ services for
41 the placement of persons in the custody of the secretary of corrections. The
42 secretary of corrections shall provide supervision and security for persons
43 placed under any such agreement.

1 Sec. 23. K.S.A. 75-5308d, 75-5309, 75-5364, 76-157, 76-158 and 76-
2 12a24 and K.S.A. 2014 Supp. 8-2,144, 8-1025, 21-5909, 36-502, 38-2006,
3 38-2212, 39-1702, 40-4702, 59-29a24, 65-689, 65-6233, 75-7d01, 75-
4 5321a, 75-53,105, 75-6524 and 75-7033 are hereby repealed.

5 Sec. 24. This act shall take effect and be in force from and after its
6 publication in the statute book.