

HOUSE BILL No. 2141

By Committee on Welfare Reform

1-23

1 AN ACT concerning food assistance; requiring cooperation with child
2 support to determine food assistance eligibility for custodial and non-
3 custodial parents; disqualifying such parents from food assistance when
4 delinquent in child support payments; amending K.S.A. 2022 Supp. 39-
5 709 and repealing the existing section.
6

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

8 Section 1. K.S.A. 2022 Supp. 39-709 is hereby amended to read as
9 follows: 39-709. (a) *General eligibility requirements for assistance for*
10 *which federal moneys are expended.* Subject to the additional requirements
11 below, assistance in accordance with plans under which federal moneys
12 are expended may be granted to any needy person who:

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

1 for the primary purpose of earning income may be considered as exempt
2 personal property in the secretary's discretion; or

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

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

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

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

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

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

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

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

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

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

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

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

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

12 (D) is enrolled in job corps;

13 (E) is working with a refugee social services agency; or

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

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

20 (4) (A) TANF mandatory work program applicants and recipients
21 shall participate in work components that lead to competitive, integrated
22 employment. Components are defined by the federal government as being
23 either primary or secondary.

24 (B) In order to meet federal work participation requirements,
25 households shall meet at least 30 hours of participation per week, at least
26 20 hours of which shall be primary and at least 10 hours may be secondary
27 components in one parent households where the youngest child is six years
28 of age or older. Participation hours shall be 55 hours in two parent
29 households, 35 hours per week if child care is not used. The maximum
30 assignment is 40 hours per week per individual. For two parent families to
31 meet the federal work participation rate, both parents shall participate in a
32 combined total of 55 hours per week, 50 hours of which shall be in
33 primary components, or one or both parents could be assigned a combined
34 total of 35 hours per week, 30 hours of which must be primary
35 components, if the Kansas department for children and families paid child
36 care is not received by the family. Single parent families with a child under
37 age six meet the federal participation requirement if the parent is engaged
38 in work or work activities for at least 20 hours per week in a primary work
39 component.

40 (C) The following components meet federal definitions of primary
41 hours of participation: Full or part-time employment, apprenticeship, work
42 study, self-employment, job corps, subsidized employment, work
43 experience sites, on-the-job training, supervised community service,

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

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

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

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

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

26 (D) any person assigned to a work participation activity for substance
27 use disorders.

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

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

40 (8) Non-cooperation is the failure of the applicant or recipient to
41 comply with all requirements provided in state and federal law, federal and
42 state rules and regulations and agency policy. The period of ineligibility
43 for TANF benefits based on non-cooperation, as defined in K.S.A. 39-702,

1 and amendments thereto, with work programs shall be as follows, for a:

2 (A) First penalty, three months and full cooperation with work
3 program activities;

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

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

8 (D) fourth or subsequent penalty, 10 years.

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

16 (10) Non-cooperation is the failure of the applicant or recipient to
17 comply with all requirements provided in state and federal law, federal and
18 state rules and regulations and agency policy. The period of ineligibility
19 for child care subsidy or TANF benefits based on parents' non-cooperation,
20 as defined in K.S.A. 39-702, and amendments thereto, with child support
21 services shall be as follows, for a:

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

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

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

28 (D) fourth penalty, 10 years.

29 ~~(11) Individuals who have not cooperated without good cause with~~
30 ~~child support services shall be ineligible to participate in the food~~
31 ~~assistance program. (A) Custodial and non-custodial parents shall~~
32 ~~cooperate with the child support enforcement program to be eligible for~~
33 ~~food assistance in accordance with the provisions of 7 C.F.R. § 273.11(o)~~
34 ~~(1) and 7 C.F.R. § 273.11(p)(1). The period of disqualification ends once it~~
35 ~~has been determined that such individual is cooperating with the child~~
36 ~~support services enforcement program.~~

37 (B) *An individual shall be disqualified from participating in the food*
38 *assistance program during any month that the individual is delinquent in*
39 *making any payment due under a court order for the support of a child in*
40 *accordance with the provisions of 7 C.F.R. § 273.11(q).*

41 (12) (A) Any individual who is found to have committed fraud or is
42 found guilty of the crime of theft pursuant to K.S.A. 39-720, and
43 amendments thereto, and K.S.A. 2022 Supp. 21-5801, and amendments

1 thereto, in either the TANF or child care program shall render all adults in
2 the family unit ineligible for TANF assistance. Adults in the household
3 who have been determined to have committed fraud or were convicted of
4 the crime of theft pursuant to K.S.A. 39-720, and amendments thereto, and
5 K.S.A. 2022 Supp. 21-5801, and amendments thereto, shall render
6 themselves and all adult household members ineligible for their lifetime
7 for TANF, even if fraud was committed in only one program. Households
8 who have been determined to have committed fraud or were convicted of
9 the crime of theft pursuant to K.S.A. 39-720, and amendments thereto, and
10 K.S.A. 2022 Supp. 21-5801, and amendments thereto, shall be required to
11 name a protective payee as approved by the secretary or the secretary's
12 designee to administer TANF benefits or food assistance on behalf of the
13 children. No adult in a household may have access to the TANF cash
14 assistance benefit.

15 (B) Any individual who has failed to cooperate with a fraud
16 investigation shall be ineligible to participate in the TANF cash assistance
17 program and the child care subsidy program until the Kansas department
18 for children and families determines that such individual is cooperating
19 with the fraud investigation. The Kansas department for children and
20 families shall maintain a sufficient level of fraud investigative staff to
21 enable the department to conduct fraud investigations in a timely manner
22 and in full accordance with state law and department rules and regulations
23 or policies.

24 (13) (A) Food assistance shall not be provided to any person
25 convicted of a felony offense occurring on or after July 1, 2015, that
26 includes as an element of such offense the manufacture, cultivation,
27 distribution, possession or use of a controlled substance or controlled
28 substance analog. For food assistance, the individual shall be permanently
29 disqualified if such individual has been convicted of a state or federal
30 felony offense occurring on or after July 1, 2015, involving possession or
31 use of a controlled substance or controlled substance analog.

32 (B) (i) Notwithstanding the provisions of subparagraph (A), an
33 individual shall be eligible for food assistance if the individual enrolls in
34 and participates in a drug treatment program approved by the secretary,
35 submits to and passes a drug test and agrees to submit to drug testing if
36 requested by the department pursuant to a drug testing plan.

37 (ii) An individual's failure to submit to testing or failure to
38 successfully pass a drug test shall result in ineligibility for food assistance
39 until a drug test is successfully passed. Failure to successfully complete a
40 drug treatment program shall result in ineligibility for food assistance until
41 a drug treatment plan approved by the secretary is successfully completed,
42 the individual passes a drug test and agrees to submit to drug testing if
43 requested by the department pursuant to a drug testing plan.

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

4 (14) No TANF cash assistance shall be used to purchase alcohol,
5 cigarettes, tobacco products, lottery tickets, concert tickets, professional or
6 collegiate sporting event tickets or tickets for other entertainment events
7 intended for the general public or sexually oriented adult materials. No
8 TANF cash assistance shall be used in any retail liquor store, casino,
9 gaming establishment, jewelry store, tattoo parlor, massage parlor, body
10 piercing parlor, spa, nail salon, lingerie shop, tobacco paraphernalia store,
11 vapor cigarette store, psychic or fortune telling business, bail bond
12 company, video arcade, movie theater, swimming pool, cruise ship, theme
13 park, dog or horse racing facility, parimutuel facility, or sexually oriented
14 business or any retail establishment that provides adult-oriented
15 entertainment in which performers disrobe or perform in an unclothed
16 state for entertainment, or in any business or retail establishment where
17 minors under age 18 are not permitted. No TANF cash assistance shall be
18 used for purchases at points of sale outside the state of Kansas.

19 (15) (A) The secretary for children and families shall place a
20 photograph of the recipient, if agreed to by such recipient of public
21 assistance, on any Kansas benefits card issued by the Kansas department
22 for children and families that the recipient uses in obtaining food, cash or
23 any other services. When a recipient of public assistance is a minor or
24 otherwise incapacitated individual, a parent or legal guardian of such
25 recipient may have a photograph of such parent or legal guardian placed
26 on the card.

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

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

35 (D) The Kansas department for children and families shall monitor all
36 recipient requests for a Kansas benefits card replacement and, upon the
37 fourth such request in a 12-month period, send a notice alerting the
38 recipient that the recipient's account is being monitored for potential
39 suspicious activity. If a recipient makes an additional request for
40 replacement subsequent to such notice, the department shall refer the
41 investigation to the department's fraud investigation unit.

42 (16) The secretary for children and families shall adopt rules and
43 regulations for:

1 (A) Determining eligibility for the child care subsidy program,
2 including an income of a cohabiting partner in a child care household; and

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

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

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

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

16 (iv) adults who are participants in a food assistance employment and
17 training program;

18 (v) adults who are participants in an early head start child care
19 partnership program and are working or in school or training; or

20 (vi) adults who are caretakers of a child in custody of the secretary in
21 out-of-home placement needing child care.

22 The Kansas department for children and families shall provide child
23 care for the pursuit of any degree or certification if the occupation has at
24 least an average job outlook listed in the occupational outlook of the
25 United States department of labor, bureau of labor statistics. For
26 occupations with less than an average job outlook, educational plans shall
27 require approval of the secretary or secretary's designee. Child care may
28 also be approved if the student provides verification of a specific job offer
29 that will be available to such student upon completion of the program.
30 Child care for post-secondary education shall be allowed for a lifetime
31 maximum of 24 months per adult. The 24 months may not have to be
32 consecutive. Students shall be engaged in paid employment for a minimum
33 of 15 hours per week. In a two-parent adult household, child care would
34 not be allowed if both parents are adults and attending a formal education
35 or training program at the same time. The household may choose which
36 one of the parents is participating as a post-secondary student. The other
37 parent shall meet another approvable criteria for child care subsidy.

38 (17) (A) The secretary for children and families is prohibited from
39 requesting or implementing a waiver or program from the United States
40 department of agriculture for the time limited assistance provisions for
41 able-bodied adults aged 18 through 49 without dependents in a household
42 under the food assistance program. The time on food assistance for able-
43 bodied adults aged 18 through 49 without dependents in the household

1 shall be limited to three months in a 36-month period if such adults are not
2 meeting the requirements imposed by the U.S. department of agriculture
3 that they must work for at least 20 hours per week or participate in a
4 federally approved work program or its equivalent.

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

10 (C) Any recipient who has not complied with the work requirements
11 under subparagraph (B) shall be ineligible to participate in the food
12 assistance program for the following time period and until the recipient
13 complies with such work requirements for a:

14 (i) First penalty, three months;

15 (ii) second penalty, six months; and

16 (iii) third penalty and any subsequent penalty, one year.

17 (D) The Kansas department for children and families shall assign all
18 individuals subject to the requirements established under 7 U.S.C. §
19 2015(d)(1) to an employment and training program as defined in 7 U.S.C.
20 § 2015(d)(4). The provisions of this subparagraph shall only apply to:

21 (i) Able-bodied adults aged 18 through 49 without dependents; and

22 (ii) individuals who are not employed at least 30 hours per week.

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

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

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

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

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

13 (c) (1) The Kansas department for children and families shall conduct
14 an electronic check for any false information provided on an application
15 for TANF and other benefits programs administered by the department.
16 For TANF cash assistance, food assistance and the child care subsidy
17 program, the department shall verify the identity of all adults in the
18 assistance household.

19 (2) The department of administration shall provide monthly to the
20 Kansas department for children and families the social security numbers or
21 alternate taxpayer identification numbers of all persons who claim a
22 Kansas lottery prize in excess of \$5,000 during the reported month. The
23 Kansas department for children and families shall verify if individuals
24 with such winnings are receiving TANF cash assistance, food assistance or
25 assistance under the child care subsidy program and take appropriate
26 action. The Kansas department for children and families shall use data
27 received under this subsection solely, and for no other purpose, to
28 determine if any recipient's eligibility for benefits has been affected by
29 lottery prize winnings. The Kansas department for children and families
30 shall not publicly disclose the identity of any lottery prize winner,
31 including recipients who are determined to have illegally received
32 benefits.

33 (d) *Temporary assistance for needy families; assignment of support*
34 *rights and limited power of attorney.* By applying for or receiving
35 temporary assistance for needy families such applicant or recipient shall be
36 deemed to have assigned to the secretary on behalf of the state any
37 accrued, present or future rights to support from any other person such
38 applicant may have in such person's own behalf or in behalf of any other
39 family member for whom the applicant is applying for or receiving aid. In
40 any case in which an order for child support has been established and the
41 legal custodian and obligee under the order surrenders physical custody of
42 the child to a caretaker relative without obtaining a modification of legal
43 custody and support rights on behalf of the child are assigned pursuant to

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

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

36 (2) For the purposes of medical assistance eligibility determinations
37 on or after July 1, 2004, if an applicant or recipient owns property in joint
38 tenancy with some other party and the applicant or recipient of medical
39 assistance has restricted or conditioned their interest in such property to a
40 specific and discrete property interest less than 100%, then such
41 designation will cause the full value of the property to be considered an
42 available resource to the applicant or recipient. Medical assistance
43 eligibility for receipt of benefits under the title XIX of the social security

1 act, commonly known as medicaid, shall not be expanded, as provided for
2 in the patient protection and affordable care act, public law 111-148, 124
3 stat. 119, and the health care and education reconciliation act of 2010,
4 public law 111-152, 124 stat. 1029, unless the legislature expressly
5 consents to, and approves of, the expansion of medicaid services by an act
6 of the legislature.

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

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

16 (i) At the time of creation or amendment of the trust, the trust states a
17 clear intent that the trust is supplemental to public assistance; and

18 (ii) the trust is funded:

19 (a) From resources of a person who, at the time of such funding,
20 owed no duty of support to the applicant or recipient of medical assistance;
21 or

22 (b) not more than nominally from resources of a person while that
23 person owed a duty of support to the applicant or recipient of medical
24 assistance.

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

28 (4) (A) When an applicant or recipient of medical assistance is a party
29 to a contract, agreement or accord for personal services being provided by
30 a nonlicensed individual or provider and such contract, agreement or
31 accord involves health and welfare monitoring, pharmacy assistance, case
32 management, communication with medical, health or other professionals,
33 or other activities related to home health care, long term care, medical
34 assistance benefits, or other related issues, any moneys paid under such
35 contract, agreement or accord shall be considered to be an available
36 resource unless the following restrictions are met:

37 (i) The contract, agreement or accord must be in writing and executed
38 prior to any services being provided;

39 (ii) the moneys paid are in direct relationship with the fair market
40 value of such services being provided by similarly situated and trained
41 nonlicensed individuals;

42 (iii) if no similarly situated nonlicensed individuals or situations can
43 be found, the value of services will be based on federal hourly minimum

1 wage standards;

2 (iv) such individual providing the services shall report all receipts of
3 moneys as income to the appropriate state and federal governmental
4 revenue agencies;

5 (v) any amounts due under such contract, agreement or accord shall
6 be paid after the services are rendered;

7 (vi) the applicant or recipient shall have the power to revoke the
8 contract, agreement or accord; and

9 (vii) upon the death of the applicant or recipient, the contract,
10 agreement or accord ceases.

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

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

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

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

38 (A) Except as otherwise provided in K.S.A. 39-786 and 39-787, and
39 amendments thereto, or as otherwise authorized on and after September
40 30, 1989, under section 303 of the federal medicare catastrophic coverage
41 act of 1988, whichever is applicable, by applying for or receiving medical
42 assistance under a medical care plan in which federal funds are expended,
43 any accrued, present or future rights to support and any rights to payment

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

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

34 (2) The amount of any medical assistance paid after June 30, 1992,
35 under the provisions of subsection (e) is a claim against the property or
36 any interest therein belonging to and a part of the estate of any deceased
37 recipient or, if there is no estate, the estate of the surviving spouse, if any,
38 shall be charged for such medical assistance paid to either or both and a
39 claim against any funds of such recipient or spouse in any account under
40 K.S.A. 9-1215, 17-2263 or 17-2264, and amendments thereto. There shall
41 be no recovery of medical assistance correctly paid to or on behalf of an
42 individual under subsection (e) except after the death of the surviving
43 spouse of the individual, if any, and only at a time when the individual has

1 no surviving child who is under 21 years of age or is blind or permanently
2 and totally disabled. Transfers of real or personal property by recipients of
3 medical assistance without adequate consideration are voidable and may
4 be set aside. Except where there is a surviving spouse, or a surviving child
5 who is under 21 years of age or is blind or permanently and totally
6 disabled, the amount of any medical assistance paid under subsection (e) is
7 a claim against the estate in any guardianship or conservatorship
8 proceeding. The monetary value of any benefits received by the recipient
9 of such medical assistance under long-term care insurance, as defined by
10 K.S.A. 40-2227, and amendments thereto, shall be a credit against the
11 amount of the claim provided for such medical assistance under this
12 subsection. The secretary of health and environment is authorized to
13 enforce each claim provided for under this subsection. The secretary of
14 health and environment shall not be required to pursue every claim, but is
15 granted discretion to determine which claims to pursue. All moneys
16 received by the secretary of health and environment from claims under this
17 subsection shall be deposited in the social welfare fund. The secretary of
18 health and environment may adopt rules and regulations for the
19 implementation and administration of the medical assistance recovery
20 program under this subsection.

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

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

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

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

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

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

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

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

1 (B) when there is no child of the recipient, natural or adopted, who is
2 20 years of age or less residing in the home;

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

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

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

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

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

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

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

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

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

40 (h) *Placement under the revised Kansas code for care of children or*
41 *revised Kansas juvenile justice code; assignment of support rights and*
42 *limited power of attorney.* In any case in which the secretary for children
43 and families pays for the expenses of care and custody of a child pursuant

1 to K.S.A. 38-2201 et seq. or 38-2301 et seq., and amendments thereto,
2 including the expenses of any foster care placement, an assignment of all
3 past, present and future support rights of the child in custody possessed by
4 either parent or other person entitled to receive support payments for the
5 child is, by operation of law, conveyed to the secretary. Such assignment
6 shall become effective upon placement of a child in the custody of the
7 secretary or upon payment of the expenses of care and custody of a child
8 by the secretary without the requirement that any document be signed by
9 the parent or other person entitled to receive support payments for the
10 child. When the secretary pays for the expenses of care and custody of a
11 child or a child is placed in the custody of the secretary, the parent or other
12 person entitled to receive support payments for the child is also deemed to
13 have appointed the secretary, or the secretary's designee, as attorney in fact
14 to perform the specific act of negotiating and endorsing all drafts, checks,
15 money orders or other negotiable instruments representing support
16 payments received by the secretary on behalf of the child. This limited
17 power of attorney shall be effective from the date the assignment to
18 support rights becomes effective and shall remain in effect until the
19 assignment of support rights has been terminated in full.

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

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

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

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

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

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

1 use of a controlled substance and controlled substance analog shall be
2 reimbursed for the cost of such additional drug screening.

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

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

39 (A) In addition, any individual designated to receive cash assistance
40 on behalf of an eligible minor child shall be subject to drug screening at
41 any time when reasonable suspicion exists that such designated individual
42 is unlawfully using a controlled substance or controlled substance analog.
43 The secretary for children and families may use any information obtained

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

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

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

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

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

43 (7) The secretary for children and families may adopt such rules and

1 regulations as are necessary to carry out the provisions of this subsection.

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

5 (9) As used in this subsection:

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

10 (B) "Controlled substance" means the same as in K.S.A. 2022 Supp.
11 21-5701, and amendments thereto, and 21 U.S.C. § 802.

12 (C) "Controlled substance analog" means the same as in K.S.A. 2022
13 Supp. 21-5701, and amendments thereto.

14 Sec. 2. K.S.A. 2022 Supp. 39-709 is hereby repealed.

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