

## **Executive Reorganization Order No. 41**

Governor Sam Brownback

2-6

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1 Section 1. The department on aging is hereby renamed the Kansas  
2 department for aging and disability services. Except as otherwise provided  
3 by this order, whenever the department on aging, or words of like effect,  
4 are referred to or designated by any statute, rule and regulation, contract,  
5 or any other document regardless of whether such reference is in regard to  
6 any of the powers, duties, or functions transferred pursuant to this order or  
7 not, such reference or designation shall be deemed to apply to the Kansas  
8 department for aging and disability services. Except as otherwise provided  
9 by this order, whenever the secretary of aging, or words of like effect, are  
10 referred to or designated by any statute, rule and regulation, contract, or  
11 any other document regardless of whether such reference is in regard to  
12 any of the powers, duties, or functions transferred pursuant to this order or  
13 not, such reference or designation shall be deemed to apply to the secretary  
14 for aging and disability services.

15 Sec. 2. The department of social and rehabilitation services is hereby  
16 renamed the Kansas department for children and families. Whenever the  
17 department of social and rehabilitation services, or words of like effect, are  
18 referred to or designated by any statute, rule and regulation, contract, or  
19 any other document regardless of whether such reference is in regard to  
20 any of the powers, duties, or functions transferred pursuant to this order or  
21 not, such reference or designation shall be deemed to apply to the Kansas  
22 department for children and families. Except as otherwise provided by this  
23 order, whenever the secretary of social and rehabilitation services, or  
24 words of like effect, are referred to or designated by any statute, rule and  
25 regulation, contract, or any other document regardless of whether such  
26 reference is in regard to any of the powers, duties, or functions transferred  
27 pursuant to this order or not, such reference or designation shall be deemed  
28 to apply to the secretary for children and families.

29 Sec. 3. (a) The disability and behavioral health services section of the  
30 Kansas department for children and families is hereby transferred to the  
31 Kansas department for aging and disability services and shall be a part  
32 thereof. The disability and behavioral health services section transferred to  
33 the Kansas department for aging and disability services by this order shall  
34 be administered by the secretary for aging and disability services.

35 The programs to be transferred by this section are:

36 (1) Mental health and substance abuse, serious emotionally disturbed,

1 developmental disability, physical disability, traumatic brain injury,  
2 autism, technology assistance, and money-follows-the-person Medicaid  
3 waivers and programs;

4 (2) licensure and regulation of community mental health centers, as  
5 defined by K.S.A. 75-3307b, and amendments thereto;

6 (3) regulation of community developmental disability organizations, as  
7 defined by K.S.A. 75-3307b, and amendments thereto;

8 (4) licensure of private psychiatric hospitals, as defined by K.S.A. 75-  
9 3307b, and amendments thereto;

10 (5) licensure and regulation of facilities and providers of residential  
11 services, as defined by K.S.A. 75-3307b, and amendments thereto;

12 (6) licensure and regulation of providers of addiction and prevention  
13 services, as defined by K.S.A. 75-5375, *et. seq.*; and

14 (7) any other programs and related grants administered by the disability  
15 and behavioral health services section of the Kansas department for  
16 children and families prior to the effective date of this order.

17 (b) Except as otherwise provided by this order, all powers, duties, and  
18 functions of the secretary for children and families pertaining to the  
19 disability and behavioral health services section transferred by this order,  
20 including that agency's designation as the Medicaid single state authority  
21 for substance abuse and for mental health, are hereby transferred to and  
22 imposed upon the secretary for aging and disability services.

23 (c) The Kansas department for aging and disability services shall be  
24 the successor in every way to the powers, duties, and functions of the  
25 Kansas department for children and families pertaining to the disability  
26 and behavioral health services section transferred by this order. Every act  
27 performed in the exercise of such transferred powers, duties, and functions  
28 by or under the authority of the Kansas department for aging and disability  
29 services shall be deemed to have the same force and effect as if performed  
30 by the Kansas department for children and families in which such powers,  
31 duties, and functions were vested prior to the effective date of this order.

32 Sec. 4. (a) All institutions, as defined by subsection (b) of K.S.A. 76-  
33 12a01, and amendments thereto, and the programs operated by such  
34 institutions are hereby transferred from the Kansas department for children  
35 and families to the Kansas department for aging and disability services.  
36 All such institutions shall be administered by the secretary for aging and  
37 disability services.

38 (b) Except as otherwise provided by this order, all powers, duties, and  
39 functions of the secretary for children and families pertaining to the  
40 programs and operation of the institutions, as defined by subsection (b) of  
41 K.S.A. 76-12a01, and amendments thereto, are hereby transferred to and  
42 imposed upon the secretary for aging and disability services.

43 (c) The Kansas department for aging and disability services shall be

1 the successor in every way to the powers, duties, and functions of the  
2 Kansas department for children and families pertaining to the programs  
3 and operation of institutions that are transferred by this order. Every act  
4 performed in the exercise of such transferred powers, duties, and functions  
5 by or under the authority of the Kansas department for aging and disability  
6 services shall be deemed to have the same force and effect as if performed  
7 by the Kansas department for children and families in which such powers,  
8 duties, and functions were vested prior to the effective date of this order.

9 Sec. 5. (a) Whenever the Kansas department for children and families,  
10 the secretary for children and families, or words of like effect, is referred  
11 to or designated by a statute, contract, or other document and such  
12 reference is in regard to any of the powers, duties, or functions transferred  
13 to the Kansas department for aging and disability services from the Kansas  
14 department for children and families by this order, such reference or  
15 designation shall be deemed to apply to the Kansas department for aging  
16 and disability services or the secretary for aging and disability services.

17 (b) All rules and regulations, orders, and directives of the Kansas  
18 department for children and families, or the secretary for children and  
19 families, or words of like effect, which relate to the functions transferred  
20 by this order and which are in effect on the effective date of this order,  
21 shall continue to be effective and shall be deemed to be rules and  
22 regulations, orders, and directives of the Kansas department for aging and  
23 disability services and the secretary for aging and disability services until  
24 revised, amended, revoked, or nullified pursuant to law.

25 (c) The secretary for aging and disability services shall determine the  
26 manner in which disability and behavioral health programs are organized  
27 within the Kansas department for aging and disability services.

28 (d) The secretary for aging and disability services shall determine the  
29 manner in which programs provided by the institutions, as defined by  
30 subsection (b) of K.S.A. 76-12a01, and amendments thereto, are organized  
31 within the Kansas department for aging and disability services.

32 Sec. 6. (a) The secretary for aging and disability services shall appoint  
33 such officers and employees as may be needed to carry out the powers and  
34 duties which the secretary assigns to disability and behavioral health  
35 functions and institution functions of the Kansas department for aging and  
36 disability services.

37 (b) All officers and employees in the Kansas department for children  
38 and families who, immediately prior to the effective date of this order,  
39 were engaged in the exercise and performance of the powers, duties, and  
40 functions transferred by this order, and who are determined by the  
41 secretary for aging and disability services to be necessary for the exercise  
42 and performance of the powers, duties, and functions transferred by this  
43 order, are hereby transferred to the Kansas department for aging and

1 disability services. In addition, all officers and employees who are  
2 determined jointly by the secretary for aging and disability services and  
3 the secretary for children and families to have been engaged in providing  
4 necessary administrative, technical or other support to the disability and  
5 behavioral health services section and to the institutions, as defined in  
6 subsection (b) of K.S.A. 76-12a01, and amendments thereto, immediately  
7 prior to the effective date of this order, are hereby transferred to the  
8 Kansas department for aging and disability services. All classified  
9 employees so transferred shall retain their status as classified employees.  
10 Thereafter, the secretary for aging and disability services may convert  
11 vacant classified positions to positions in the unclassified service under the  
12 Kansas civil service act.

13 (c) Officers and employees who are transferred by this order to the  
14 Kansas department for aging and disability services shall retain all  
15 retirement benefits and leave balances and rights which had accrued or  
16 vested prior to the date of transfer. The service of each such officer or  
17 employee so transferred shall be deemed to have been continuous. Any  
18 subsequent transfers, layoffs, or abolition of classified service positions  
19 under the Kansas civil service act shall be made in accordance with the  
20 civil service laws and any rules and regulations adopted thereunder.  
21 Nothing in this order shall affect the classified status of any transferred  
22 person employed by the Kansas department for children and families prior  
23 to the date of transfer.

24 (d) Notwithstanding the effective date of this order, the provisions of  
25 this section prescribing the transfer of officers and employees from the  
26 Kansas department for children and families to the Kansas department for  
27 aging and disability services shall be administered so that the date of  
28 transfer of such personnel shall be the start of a payroll period.

29 Sec. 7. (a) The balances of all funds or accounts thereof appropriated  
30 or reappropriated for the Kansas department for children and families  
31 relating to the powers, duties, and functions transferred by this order are  
32 hereby transferred within the state treasury to the Kansas department for  
33 aging and disability services and shall be used only for the purpose for  
34 which the appropriation was originally made.

35 (b) Liability for all accrued compensation or salaries of officers and  
36 employees who are transferred to the Kansas department for aging and  
37 disability services under this order shall be assumed and paid by the  
38 Kansas department for aging and disability services.

39 (c) The problem gambling and addictions grant fund and all fees, grant  
40 funds, and loan repayment funds of the Kansas department for children  
41 and families dedicated to programs transferred by this order shall be  
42 transferred to the Kansas department for aging and disability services.

43 Sec. 8. (a) The following parts of the health occupations credentialing

1 program of the department of health and environment under the Kansas act  
2 on credentialing, K.S.A. 65-5001 through 65-5011, and amendments  
3 thereto, shall be transferred to and shall be administered by the secretary  
4 for aging and disability services:

5 (1) Licensure of adult care home administrators, as defined by  
6 subsection (c) of K.S.A. 65-3501, and amendments thereto;

7 (2) licensure of dietitians, as defined by subsection (f) of K.S.A. 65-  
8 5902, and amendments thereto;

9 (3) certification of residential care facility operators, as defined by  
10 subsection (a)(21) of K.S.A. 39-923, and amendments thereto;

11 (4) certification of activity directors, as defined by subsection (a) of  
12 K.A.R. 26-39-100 on the effective date of this order;

13 (5) certification of social service designees, as defined by subsection  
14 (ppp) of K.A.R. 26-39-100 on the effective date of this order;

15 (6) certification of nurse aides, as defined by subsection (pp) of K.A.R.  
16 26-39-100 on the effective date of this order;

17 (7) certification of medication aides as defined by subsection (mm) of  
18 K.A.R. 26-39-100 on the effective date of this order;

19 (8) certification of home health aides as defined by subsection (d) of  
20 K.S.A. 65-5101, and amendments thereto; and

21 (9) maintenance of the Kansas nurse aide registry under subsection (c)  
22 of K.S.A. 39-936, and amendments thereto, and K.S.A. 39-1411, and  
23 amendments thereto.

24 (b) The criminal history record check program, as authorized by  
25 individual credentialing statutes or rules and regulations, K.S.A. 39-969,  
26 and amendments thereto, K.S.A. 39-970, and amendments thereto, and  
27 subsection (b) of K.S.A. 22-4707, and amendments thereto, is hereby  
28 transferred from the department of health and environment to the Kansas  
29 department for aging and disability services and shall be a part thereof.

30 (c) The licensure of adult care home administrators, the licensure of  
31 dietitians, the certification of residential care facility operators, the  
32 certification of activity directors, the certification of social service  
33 designees, the certification of nurse aides, the certification of medication  
34 aides, the certification of home health aides, the board of adult care home  
35 administrators, the maintenance of the Kansas nurse aide registry, and the  
36 criminal history record check program shall be administered by the  
37 secretary for aging and disability services. Nothing in this order shall  
38 change or diminish the authority of the board of adult care home  
39 administrators established by K.S.A. 65-3506, and amendments thereto.

40 (d) Except as otherwise provided by this order, all powers, duties, and  
41 functions of the secretary of health and environment pertaining to the  
42 licensure of adult care home administrators, the licensure of dietitians, the  
43 certification of residential care facility operators, the certification of

1 activity directors, the certification of social service designees, the  
2 certification of nurse aides, the certification of medication aides, the  
3 certification of home health aides, the board of adult care home  
4 administrators, the Kansas nurse aide registry, and the criminal record  
5 check program transferred by this order are hereby transferred to and  
6 imposed upon the secretary for aging and disability services.

7 (e) The Kansas department for aging and disability services shall be the  
8 successor in every way to the powers, duties, and functions of the  
9 department of health and environment pertaining to those portions of the  
10 health occupations credentialing program transferred by this order. Every  
11 act performed in the exercise of such transferred powers, duties, and  
12 functions by or under the authority of the Kansas department for aging and  
13 disability services shall be deemed to have the same force and effect as if  
14 performed by the department of health and environment in which such  
15 powers, duties, and functions were vested prior to the effective date of this  
16 order.

17 Sec. 9. (a) The psychiatric residential treatment facility licensure  
18 program of the department of health and environment is hereby transferred  
19 to the Kansas department for aging and disability services and shall be a  
20 part thereof. The psychiatric residential treatment facility licensure  
21 program shall be administered by the secretary for aging and disability  
22 services. As used in this section, “psychiatric residential treatment facility  
23 licensure program” means that portion of the licensure program of the  
24 department of health and environment under K.S.A. 65-501 *et seq.*, for  
25 licensure of child care facilities, as defined by subsection (c) of K.S.A. 65-  
26 503, and amendments thereto, that are psychiatric residential treatment  
27 facilities, as defined by subsection (k) of K.A.R. 28-4-1200 on the  
28 effective date of this order, and subsection (g)(3) of K.S.A. 72-8187, and  
29 amendments thereto.

30 (b) Except as otherwise provided by this order, all powers, duties, and  
31 functions of the secretary of health and environment pertaining to the  
32 psychiatric residential treatment facility licensure program transferred by  
33 this order are hereby transferred to and imposed upon the secretary for  
34 aging and disability services.

35 (c) The Kansas department for aging and disability services shall be  
36 the successor in every way to the powers, duties, and functions of the  
37 department of health and environment pertaining to the psychiatric  
38 residential treatment facility licensure program transferred by this order.  
39 Every act performed in the exercise of such transferred powers, duties, and  
40 functions by or under the authority of the Kansas department for aging and  
41 disability services shall be deemed to have the same force and effect as if  
42 performed by the department of health and environment in which such  
43 powers, duties, and functions were vested prior to the effective date of this

1 order.

2 Sec. 10. (a) Whenever the department of health and environment, the  
3 secretary of health and environment, or words of like effect are referred to  
4 or designated by a statute, contract, or other document and such reference  
5 is in regard to any of the powers, duties, or functions transferred from the  
6 department of health and environment to the Kansas department for aging  
7 and disability services by this order, such reference or designation shall be  
8 deemed to apply to the Kansas department for aging and disability services  
9 or the secretary for aging and disability services.

10 (b) All rules and regulations, orders, and directives of the department  
11 of health and environment which relate to the functions transferred to the  
12 Kansas department for aging and disability services by this order and  
13 which are in effect on the effective date of this order shall continue to be  
14 effective and shall be deemed to be rules and regulations, orders, and  
15 directives of the Kansas department for aging and disability services until  
16 revised, amended, revoked, or nullified pursuant to law.

17 (c) The secretary for aging and disability services shall determine the  
18 manner in which the licensure of adult care home administrators, the  
19 licensure of dietitians, the certification of residential care facility  
20 operators, the certification of activity directors, the certification of social  
21 service designees, the certification of nurse aides, the certification of  
22 medication aides, the certification of home health aides, the board of adult  
23 care home administrators, the maintenance of the Kansas nurse aide  
24 registry programs, and the criminal history record check program are  
25 organized within the Kansas department for aging and disability services.

26 (d) The secretary for aging and disability services shall determine the  
27 manner in which the psychiatric residential treatment facility licensure  
28 program shall be organized within the Kansas department for aging and  
29 disability services.

30 Sec. 11. (a) The secretary for aging and disability services shall appoint  
31 such officers and employees as may be needed to carry out the powers and  
32 duties which the secretary assigns to the licensure of adult care home  
33 administrators, the licensure of dietitians, the certification of residential  
34 care facility operators, the certification of activity directors, the  
35 certification of social service designees, the certification of nurse aides, the  
36 certification of medication aides, the certification of home health aides, the  
37 maintenance of the Kansas nurse aide registry programs, the criminal  
38 history record check program, and the psychiatric residential treatment  
39 facility licensure program of the Kansas department for aging and  
40 disability services.

41 (b) All officers and employees in the department of health and  
42 environment who, immediately prior to the effective date of this order,  
43 were engaged in the exercise and performance of the powers, duties, and

1 functions transferred by this order, and who are determined by the  
2 secretary for aging and disability services to be necessary for the exercise  
3 and performance of such powers, duties, and functions transferred by this  
4 order, are hereby transferred to the Kansas department for aging and  
5 disability services. In addition, all officers and employees who are  
6 determined jointly by the secretary for aging and disability services and  
7 the secretary of health and environment to have been engaged in providing  
8 necessary administrative, technical or other support to the transferred  
9 programs are hereby transferred to the Kansas department for aging and  
10 disability services. All classified employees so transferred shall retain  
11 their status as classified employees. Thereafter, the secretary for aging and  
12 disability services may convert vacant classified positions to positions in  
13 the unclassified service under the Kansas civil service act.

14 (c) Officers and employees in the department of health and  
15 environment transferred by this order shall retain all retirement benefits  
16 and leave balances and rights which had accrued or vested prior to the date  
17 of transfer. The service of each such employee so transferred shall be  
18 deemed to have been continuous. Any subsequent transfers, layoffs, or  
19 abolition of classified service positions under the Kansas civil service act  
20 shall be made in accordance with the civil service laws and any rules and  
21 regulations adopted thereunder. Nothing in this order shall affect the  
22 classified status of any transferred person employed by the department of  
23 health and environment prior to the date of transfer.

24 (d) Notwithstanding the effective date of this order, the provisions of  
25 this section prescribing the transfer of officers and employees from the  
26 department of health and environment to the Kansas department for aging  
27 and disability services shall be administered so that the date of transfer of  
28 such personnel shall be the start of a payroll period.

29 Sec. 12. (a) The balances of all funds or accounts thereof appropriated  
30 or reappropriated for the department of health and environment relating to  
31 the powers, duties, and functions transferred by this order are hereby  
32 transferred within the state treasury to the Kansas department for aging  
33 and disability services and shall be used only for the purpose for which the  
34 appropriation was originally made.

35 (b) Liability for all accrued compensation or salaries of officers and  
36 employees who are transferred to the Kansas department for aging and  
37 disability services under this order shall be assumed and paid by the  
38 Kansas department for aging and disability services.

39 (c) Subject to the acts of the legislature, all fees, grant funds, and loan  
40 repayment funds in the department of health and environment dedicated to  
41 programs transferred by this order shall be transferred to the Kansas  
42 department for aging and disability services.

43 Sec. 13. (a) The Kansas department for aging and disability services



1 shall succeed to all property, property rights, and records which were used  
2 for or pertain to the performance of powers, duties, and functions  
3 transferred to it by this order. Any conflict as to the proper disposition of  
4 property, personnel, or records arising under this order shall be determined  
5 by the governor, whose decision shall be final.

6 (b) When any conflict arises as to any power, duty, or function  
7 resulting from any transfer made by or under the authority of this order,  
8 such conflict shall be resolved by the governor, whose decision shall be  
9 final.

10 Sec. 14. (a) No suit, action, or other proceeding, judicial or  
11 administrative, lawfully commenced, or which could have been  
12 commenced, by or against any state agency or program mentioned in this  
13 order, or by or against any officer of the state in such officer's official  
14 duties, shall abate by reason of the governmental reorganization effected  
15 under the provisions of this order. The court may allow any such suit,  
16 action, or other proceeding to be maintained by or against the successor of  
17 any such state agency or any officer affected.

18 (b) No criminal action commenced or which could have been  
19 commenced by the state shall abate by the taking effect of this order.

20 Sec. 15. Except as otherwise provided by this order, all of the  
21 provisions of this order shall take effect and have the force of general law  
22 on July 1, 2012, unless disapproved by either house of the Kansas  
23 legislature as provided by subsection (c) of section 6 of article 1 of the  
24 constitution of Kansas, and unless so disapproved, this order is to be  
25 published as and with the acts of the legislature and the statutes of this  
26 state.

27  
28  
29 DONE AT The Capitol in Topeka  
30 Under the Great Seal of the State of  
31 Kansas this 6<sup>th</sup> day of February 2012.

32  
33 BY THE GOVERNOR:  
34 SAM BROWNBACK

35  
36 Kris W. Kobach  
37 *Secretary of State*

38  
39 Eric Rucker  
40 *Assistant Secretary of State*  
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