

## HOUSE Substitute for SENATE BILL No. 275

By Committee on Federal and State Affairs

3-28

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1 AN ACT establishing a program of drug screening for cash assistance  
2 recipients; amending K.S.A. 2011 Supp. 39-709 and repealing the  
3 existing section.  
4

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

6 Section 1. K.S.A. 2011 Supp. 39-709 is hereby amended to read as  
7 follows: 39-709. (a) *General eligibility requirements for assistance for*  
8 *which federal moneys are expended.* Subject to the additional requirements  
9 below, assistance in accordance with plans under which federal moneys  
10 are expended may be granted to any needy person who:

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

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

33 (b) *Assistance to families with dependent children.* Assistance may be  
34 granted under this act to any dependent child, or relative, subject to the  
35 general eligibility requirements as set out in subsection (a), who resides in  
36 the state of Kansas or whose parent or other relative with whom the child

1 is living resides in the state of Kansas. Such assistance shall be known as  
2 aid to families with dependent children. Where husband and wife are  
3 living together both shall register for work under the program  
4 requirements for aid to families with dependent children in accordance  
5 with criteria and guidelines prescribed by rules and regulations of the  
6 secretary.

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

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

42 (A) To qualify for general assistance in any form a needy person must  
43 have insufficient income or resources to provide a reasonable subsistence

1 compatible with decency and health and, except as provided for  
2 transitional assistance, be a member of a family in which a minor child or  
3 a pregnant woman resides or be unable to engage in employment. The  
4 secretary shall adopt rules and regulations prescribing criteria for  
5 establishing when a minor child may be considered to be living with a  
6 family and whether a person is able to engage in employment, including  
7 such factors as age or physical or mental condition. Eligibility for general  
8 assistance, other than transitional assistance, is limited to families in which  
9 a minor child or a pregnant woman resides or to an adult or family in  
10 which all legally responsible family members are unable to engage in  
11 employment. Where a husband and wife are living together the combined  
12 income or resources of both shall be considered in determining the  
13 eligibility of either or both for such assistance unless otherwise prohibited  
14 by law. The secretary in determining need of any applicant for or recipient  
15 of general assistance shall not take into account the financial responsibility  
16 of any individual for any applicant or recipient of general assistance unless  
17 such applicant or recipient is such individual's spouse or such individual's  
18 minor child or a minor stepchild if the stepchild is living with such  
19 individual. In determining the need of an individual, the secretary may  
20 provide for income and resource exemptions.

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

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

31 (3) In addition to the other requirements prescribed under this  
32 subsection (d), the secretary shall adopt rules and regulations which  
33 establish community work experience program requirements for eligibility  
34 for the receipt of general assistance in any form and which establish  
35 penalties to be imposed when a work assignment under a community work  
36 experience program requirement is not completed without good cause. The  
37 secretary may adopt rules and regulations establishing exemptions from  
38 any such community work experience program requirements. A first time  
39 failure to complete such a work assignment requirement shall result in  
40 ineligibility to receive general assistance for a period fixed by such rules  
41 and regulations of not more than three calendar months. A subsequent  
42 failure to complete such a work assignment requirement shall result in a  
43 period fixed by such rules and regulations of ineligibility of not more than

1 six calendar months.

2 (4) If any person is found guilty of the crime of theft under the  
3 provisions of K.S.A. 39-720, and amendments thereto, such person shall  
4 thereby become forever ineligible to receive any form of general  
5 assistance under the provisions of this subsection (d) unless the conviction  
6 is the person's first conviction under the provisions of K.S.A. 39-720, and  
7 amendments thereto, or the law of any other state concerning welfare  
8 fraud. First time offenders convicted of a misdemeanor under the  
9 provisions of such statute shall become ineligible to receive any form of  
10 general assistance for a period of 12 calendar months from the date of  
11 conviction. First time offenders convicted of a felony under the provisions  
12 of such statute shall become ineligible to receive any form of general  
13 assistance for a period of 60 calendar months from the date of conviction.  
14 If any person is found guilty by a court of competent jurisdiction of any  
15 state other than the state of Kansas of a crime involving welfare fraud,  
16 such person shall thereby become forever ineligible to receive any form of  
17 general assistance under the provisions of this subsection (d) unless the  
18 conviction is the person's first conviction under the law of any other state  
19 concerning welfare fraud. First time offenders convicted of a misdemeanor  
20 under the law of any other state concerning welfare fraud shall become  
21 ineligible to receive any form of general assistance for a period of 12  
22 calendar months from the date of conviction. First time offenders  
23 convicted of a felony under the law of any other state concerning welfare  
24 fraud shall become ineligible to receive any form of general assistance for  
25 a period of 60 calendar months from the date of conviction.

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

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

1 tenancy with some other party and the applicant or recipient of medical  
2 assistance has restricted or conditioned their interest in such property to a  
3 specific and discrete property interest less than 100%, then such  
4 designation will cause the full value of the property to be considered an  
5 available resource to the applicant or recipient.

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

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

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

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

1 or recipient, the contract, agreement or accord ceases.

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

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

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

27 (g) *Medical assistance; assignment of rights to medical support and*  
28 *limited power of attorney; recovery from estates of deceased recipients.*(1)  
29 Except as otherwise provided in K.S.A. 39-786 and 39-787, and  
30 amendments thereto, or as otherwise authorized on and after September  
31 30, 1989, under section 303 and amendments thereto of the federal  
32 medicare catastrophic coverage act of 1988, whichever is applicable, by  
33 applying for or receiving medical assistance under a medical care plan in  
34 which federal funds are expended, any accrued, present or future rights to  
35 support and any rights to payment for medical care from a third party of an  
36 applicant or recipient and any other family member for whom the  
37 applicant is applying shall be deemed to have been assigned to the  
38 secretary on behalf of the state. The assignment shall automatically  
39 become effective upon the date of approval for such assistance without the  
40 requirement that any document be signed by the applicant or recipient. By  
41 applying for or receiving medical assistance the applicant or recipient is  
42 also deemed to have appointed the secretary, or the secretary's designee, as  
43 an attorney in fact to perform the specific act of negotiating and endorsing

1 all drafts, checks, money orders or other negotiable instruments,  
2 representing payments received by the secretary in behalf of any person  
3 applying for, receiving or having received such assistance. This limited  
4 power of attorney shall be effective from the date the secretary approves  
5 the application for assistance and shall remain in effect until the  
6 assignment has been terminated in full. The assignment of any rights to  
7 payment for medical care from a third party under this subsection shall not  
8 prohibit a health care provider from directly billing an insurance carrier for  
9 services rendered if the provider has not submitted a claim covering such  
10 services to the secretary for payment. Support amounts collected on behalf  
11 of persons whose rights to support are assigned to the secretary only under  
12 this subsection and no other shall be distributed pursuant to subsection (d)  
13 of K.S.A. 39-756, and amendments thereto, except that any amounts  
14 designated as medical support shall be retained by the secretary for  
15 repayment of the unreimbursed portion of assistance. Amounts collected  
16 pursuant to the assignment of rights to payment for medical care from a  
17 third party shall also be retained by the secretary for repayment of the  
18 unreimbursed portion of assistance.

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

1 from claims under this subsection (g) shall be deposited in the social  
2 welfare fund. The secretary may adopt rules and regulations for the  
3 implementation and administration of the medical assistance recovery  
4 program under this subsection (g).

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

11 (A) If an individual receives any medical assistance before July 1,  
12 2004, pursuant to article 7 of chapter 39 of the Kansas Statutes Annotated,  
13 *and amendments thereto*, which forms the basis for a claim under  
14 subsection (g)(2), such claim is limited to the individual's probatable estate  
15 as defined by applicable law; and

16 (B) if an individual receives any medical assistance on or after July 1,  
17 2004, pursuant to article 7 of chapter 39 of the Kansas Statutes Annotated,  
18 *and amendments thereto*, which forms the basis for a claim under  
19 subsection (g)(2), such claim shall apply to the individual's medical  
20 assistance estate. The medical assistance estate is defined as including all  
21 real and personal property and other assets in which the deceased  
22 individual had any legal title or interest immediately before or at the time  
23 of death to the extent of that interest or title. The medical assistance estate  
24 includes, without limitation assets conveyed to a survivor, heir or assign of  
25 the deceased recipient through joint tenancy, tenancy in common,  
26 survivorship, transfer-on-death deed, payable-on-death contract, life estate,  
27 trust, annuities or similar arrangement.

28 (4) The secretary of social and rehabilitation services or the  
29 secretary's designee is authorized to file and enforce a lien against the real  
30 property of a recipient of medical assistance in certain situations, subject  
31 to all prior liens of record. The lien must be filed in the office of the  
32 register of deeds of the county where the real property is located and must  
33 contain the legal description of all real property in the county subject to the  
34 lien. This lien is for payments of medical assistance made by the  
35 department of social and rehabilitation services to the recipient who is an  
36 inpatient in a nursing home or other medical institution. Such lien may be  
37 filed only after notice and an opportunity for a hearing has been given.  
38 Such lien may be enforced only upon competent medical testimony that  
39 the recipient cannot reasonably be expected to be discharged and returned  
40 home. A six-month period of compensated inpatient care at a nursing  
41 home, nursing homes or other medical institution shall constitute a  
42 determination by the department of social and rehabilitation services that  
43 the recipient cannot reasonably be expected to be discharged and returned

1 home. To return home means the recipient leaves the nursing or medical  
2 facility and resides in the home on which the lien has been placed for a  
3 period of at least 90 days without being readmitted as an inpatient to a  
4 nursing or medical facility. The amount of the lien shall be for the amount  
5 of assistance paid by the department of social and rehabilitation services  
6 after the expiration of six months from the date the recipient became  
7 eligible for compensated inpatient care at a nursing home, nursing homes  
8 or other medical institution until the time of the filing of the lien and for  
9 any amount paid thereafter for such medical assistance to the recipient.

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

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

17 (B) when there is no child of the recipient, natural or adopted, who is  
18 20 years of age or less residing in the home;

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

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

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

28 (A) The lien is satisfied. The recipient, the heirs, personal  
29 representative or assigns of the recipient may discharge such lien at any  
30 time by paying the amount of the lien to the secretary or the secretary's  
31 designee;

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

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

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

1 days must be completed before the lien can be dissolved.

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

10 (h) *Placement under the revised Kansas code for care of children or*  
11 *revised Kansas juvenile justice code; assignment of support rights and*  
12 *limited power of attorney.* In any case in which the secretary of social and  
13 rehabilitation services pays for the expenses of care and custody of a child  
14 pursuant to K.S.A. 2011 Supp. 38-2201 *et seq.* or 38-2301 *et seq.*, and  
15 amendments thereto, including the expenses of any foster care placement,  
16 an assignment of all past, present and future support rights of the child in  
17 custody possessed by either parent or other person entitled to receive  
18 support payments for the child is, by operation of law, conveyed to the  
19 secretary. Such assignment shall become effective upon placement of a  
20 child in the custody of the secretary or upon payment of the expenses of  
21 care and custody of a child by the secretary without the requirement that  
22 any document be signed by the parent or other person entitled to receive  
23 support payments for the child. When the secretary pays for the expenses  
24 of care and custody of a child or a child is placed in the custody of the  
25 secretary, the parent or other person entitled to receive support payments  
26 for the child is also deemed to have appointed the secretary, or the  
27 secretary's designee, as attorney in fact to perform the specific act of  
28 negotiating and endorsing all drafts, checks, money orders or other  
29 negotiable instruments representing support payments received by the  
30 secretary on behalf of the child. This limited power of attorney shall be  
31 effective from the date the assignment to support rights becomes effective  
32 and shall remain in effect until the assignment of support rights has been  
33 terminated in full.

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

42 (j) If the applicant or recipient of aid to families with dependent  
43 children is a mother of the dependent child, as a condition of the mother's

1 eligibility for aid to families with dependent children the mother shall  
2 identify by name and, if known, by current address the father of the  
3 dependent child except that the secretary may adopt by rules and  
4 regulations exceptions to this requirement in cases of undue hardship. Any  
5 recipient of aid to families with dependent children who fails to cooperate  
6 with requirements relating to child support enforcement under criteria and  
7 guidelines prescribed by rules and regulations of the secretary shall be  
8 subject to a penalty established by the secretary by rules and regulations  
9 which penalty shall progress to ineligibility for the family after three  
10 months of noncooperation.

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

33 (l) (1) *Applicants for cash assistance as a condition of eligibility for*  
34 *cash assistance and persons receiving cash assistance as a condition of*  
35 *continued receipt of cash assistance shall agree to participate in a*  
36 *program of drug screening. Within the limits of appropriations therefor,*  
37 *the program of drug screening for cash assistance recipients shall be*  
38 *established, subject to applicable federal law, by the secretary of social*  
39 *and rehabilitation services on or before January 1, 2013. Subject to*  
40 *appropriations therefor, such program shall provide for random drug*  
41 *screening of approximately  $\frac{1}{3}$  of cash assistance recipients each year. If*  
42 *any recipient opts out from such drug screening, the secretary of social*  
43 *and rehabilitation services may order a drug screening of such recipient at*

1 any time when reasonable suspicion arises from the information obtained  
2 by the secretary of social and rehabilitation services indicating possible  
3 drug use by the recipient, including, but not limited to, an individual's  
4 demeanor, missed appointments and arrest or other police records. Any  
5 person whose drug screening which results in a positive test may request  
6 that the drug screening specimen be sent to a different drug testing facility  
7 for a more detailed drug screen. A cash assistance recipient who tests  
8 positive for use of an illegal substance shall undergo a drug evaluation  
9 and if indicated by the evaluation be required to complete an educational  
10 or treatment program recommended as a result of the evaluation.

11 (2) Subject to applicable federal laws, any cash assistance recipient  
12 who fails to complete or refuses to participate in the educational or  
13 treatment program required under this subsection for the first time shall be  
14 terminated from cash assistance for 12 months. After completion of such  
15 educational or treatment program, the cash assistance recipient shall be  
16 subject to periodic drug screening. Upon a second positive test for use of  
17 an illegal substance, the cash assistance recipient shall be ordered to  
18 complete again an educational or treatment program for substance abuse  
19 and shall be terminated from cash assistance for 12 months. Upon a third  
20 positive test for use of an illegal substance, the cash assistance recipient,  
21 subject to applicable federal law, if any, shall be terminated from cash  
22 assistance.

23 (3) Applicants and recipients of cash assistance who request an  
24 additional drug test at a different testing facility shall be required to pay  
25 the cost of drug screening. Such applicants and recipients who took the  
26 additional drug screening test and who test negative for use of an illegal  
27 substance shall be reimbursed in a timely manner for the cost of the  
28 additional drug screening.

29 (4) A household which includes a recipient who has been terminated  
30 from cash assistance shall be required to receive cash assistance as  
31 protective or vendor payments to a third-party payee designated or  
32 approved by the secretary of social and rehabilitation services for the  
33 benefit of the other eligible members of the household.

34 (5) If a person is found guilty of a crime that has as an element of the  
35 offense the felony possession, use or distribution of a controlled substance,  
36 and the date of the crime is on or after July 1, 2012, such person shall  
37 thereby become forever ineligible to receive any cash assistance under this  
38 subsection unless the conviction is the person's first conviction. First time  
39 offenders convicted of a felony drug offense shall become ineligible to  
40 receive benefits for five years from the date of conviction.

41 (6) Except for hearings before the department of social and  
42 rehabilitation services or criminal prosecutions, the results of any test  
43 administered as part of the drug screening program authorized by this

1 subsection shall be confidential and shall not be disclosed publicly.

2 (7) The secretary of social and rehabilitation services may adopt  
3 such rules and regulations as necessary to carry out the provisions of this  
4 subsection.

5 (8) The secretary of social and rehabilitation services shall report on  
6 or before January 31, 2015, and annually thereafter on or before January  
7 31 to the chairperson of the house committee on appropriations, the  
8 chairperson of the house committee on health and human services, the  
9 chairperson of the senate committee on ways and means and the  
10 chairperson of the senate committee on public health and welfare  
11 concerning the operation and administration of the drug screening  
12 program established under this subsection.

13 (9) As used in this subsection, "cash assistance" means cash  
14 assistance provided to individuals under the provisions of article 7 of  
15 chapter 39 of the Kansas Statutes Annotated, and amendments thereto,  
16 and any rules and regulations adopted pursuant to such statutes.

17 Sec. 2. K.S.A. 2011 Supp. 39-709 is hereby repealed.

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

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