

Executive Reorganization Order No. 43

By Governor Sam Brownback

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1 Section 1. (a) The department of health and environment was
2 established by K.S.A. 75-5601 et seq.

3 (b) Within the department of health and environment there are three
4 divisions: division of public health, the division of environment and the
5 division of health care finance.

6 (c) Within the division of public health there are various bureaus and
7 programs which carry out and administer the multiple functions of the
8 department.

9 (d) Included among those bureaus of the division of public health is the
10 bureau of family health. Within the bureau of family health there is the
11 child placing agency and residential programs section. Among other
12 functions, this bureau licenses and regulates foster care and other
13 residential facilities.

14 (e) The department for children and families was established by K.S.A.
15 75-5301 et seq.

16 (f) Within the department for children and families there is an economic
17 and employment services section that, among other functions, determines
18 eligibility for services under Title XIX of the Social Security Act, known
19 as Medicaid and eligibility for services for state funded medical services.

20 (g) Except as otherwise provided by this order, beginning January 1,
21 2016 all the powers, duties and functions of the department for children
22 and families, economic and employment services section that, among other
23 functions, determines eligibility for services under Title XIX of the Social
24 Security Act, known as Medicaid and eligibility for services for state
25 funded medical services are hereby transferred to and imposed upon the
26 department for health and environment and the secretary of the department
27 of health and environment.

28 (h) Except as otherwise provided by this order, beginning July 1, 2015
29 all the powers, duties and functions of the department of health and
30 environment, division of public health section for child placing agencies
31 and residential facilities which, among other things, licenses and regulates
32 foster care and other residential facilities are hereby transferred to and
33 imposed upon the Kansas department for children and families and the
34 secretary of the department for children and families.

35 (i) The department for children and families shall be the successor in
36 every way to the powers, duties and functions of the bureau of family

1 health, child placing agency and residential programs section in which the
2 same were vested prior to the effective date of this order. Every act
3 performed in the exercise of such transferred power, duties and functions
4 by or under the authority of the department of health and environment,
5 division of public health, bureau of family health, child placing agency and
6 residential programs section shall be deemed to have the same force and
7 effect as if performed by the department of health and environment in
8 which such powers, duties, and functions were vested prior to the effective
9 date of this order.

10 (j) The department of health and environment shall be the successor in
11 every way to the powers, duties and functions of the department for
12 children and families concerning duties and functions of the department
13 for children and families, economic and employment services section that
14 determines eligibility for services under Title XIX of the Social Security
15 Act (Medicaid) and eligibility for state funded medical services in which
16 the same were vested prior to the effective date of this order. Every act
17 performed in the exercise of such transferred power, duties and functions
18 by or under the authority of the department for children and families,
19 economic and employment services section that, among other functions,
20 determines eligibility for services under Title XIX of the Social Security
21 Act, known as Medicaid and eligibility for services for state funded
22 medical services, that pertains to determining eligibility for Medicaid and
23 state funded medical services shall be deemed to have the same force and
24 effect as if performed by the department for children and families in which
25 such powers, duties, and functions were vested prior to the effective date
26 of this order.

27 Section 2. (a) The department for children and families or designees
28 appointed by the secretary shall be the successor in every way to the
29 powers, duties, and functions of any state agency department, board,
30 commission or council, providing services and creating systems in order to
31 comply with the provisions of any laws or regulations affecting the
32 department of health and environment, division of public health, bureau of
33 family health, child placing and residential programs. Every act
34 performed in the exercise of such transferred powers, duties, and functions
35 by or under the authority of the department for children and families shall
36 be deemed to have the same force and effect as if performed by any state
37 agency, department, board, commission or council in which such powers,
38 duties and functions were vested prior to the date of this order.

39 (b) The department of health and environment or designees appointed
40 by the secretary shall be the successor in every way to the powers, duties,
41 and functions of any state agency department, board, commission or
42 council, providing services and creating systems in order to comply with
43 the provisions of any laws or regulations affecting the department for

1 children and families, eligibility and employment services section which
2 pertains to determining eligibility for Medicaid services. Every act
3 performed in the exercise of such transferred powers, duties, and functions
4 by or under the authority of the department of health and environment
5 shall be deemed to have the same force and effect as if performed by any
6 state agency, department, board, commission or council in which such
7 powers, duties and functions were vested prior to the date of this order.

8 (c) Wherever the department of health and environment, pertaining to
9 the duties or functions of the child placing agency and residential
10 programs section division of public health, bureau of family health, or
11 words of like effect is referred to or designated by statute, contract,
12 memorandum, agreement or other document and such reference is in
13 regard to any of the powers, duties or functions transferred to the
14 department for children and families, such reference or designation shall
15 be deemed to apply to the department for children and families.

16 (d) Wherever the department for children and families, economic and
17 employment services section that determines eligibility for services under
18 Title XIX of the Social Security Act (Medicaid) and state funded medical
19 services, or words of like effect are referred to or designated by statute,
20 contract, memorandum, agreement or other document and such reference
21 is in regard to any of the powers, duties or functions transferred to the
22 department of health and environment, such reference or designation shall
23 be deemed to apply to the department of health and environment.

24 (e) All rules and regulations, orders and directives of the Kansas
25 department of health and environment which relate to the functions
26 transferred by this order, and which are in effect on the effective date of
27 this order, shall continue to be effective and shall be deemed to be rules
28 and regulations, orders and directives of the secretary of the department
29 for children and families respective to the duties that the secretary for
30 children and families is assuming by this order.

31 (f) All rules and regulations, orders and directives of the Kansas
32 department for children and families which relate to the functions
33 transferred by this order, and which are in effect on the effective date of
34 this order, shall continue to be effective and shall be deemed to be rules
35 and regulations, orders and directives of the secretary of the department of
36 health and environment respective to the duties that the secretary of health
37 and environment is assuming by this order.

38 Section 3. (a) The balance of all funds or accounts thereof appropriated
39 or reappropriated for the Kansas department of health and environment or
40 any state agency, department, board, commission or council, relating to the
41 powers, duties and functions transferred by this order are hereby
42 transferred within the state treasury to the department for children and
43 families respective to the powers, duties and functions transferred by this

1 order.

2 (b) The balance of all funds or accounts thereof appropriated or
3 reappropriated for the Kansas department for children and families or any
4 state agency, department, board, commission or council, relating to the
5 powers, duties and functions transferred by this order are hereby
6 transferred within the state treasury to the department of health and
7 environment respective to the powers, duties and functions transferred by
8 this order.

9 (c) Liability for the accrued compensation or salaries of officers and
10 employees who are transferred to the department for children and families
11 under this order shall be assumed and paid by the department for children
12 and families, respective to the powers, duties and functions transferred by
13 this order.

14 (d) Liability for the accrued compensation or salaries of officers and
15 employees who are transferred to the department of health and
16 environment under this order shall be assumed and paid by the department
17 of health and environment, respective to the powers, duties and functions
18 transferred by this order.

19 Section 4. (a) When any conflict arises as to the disposition of any
20 property, power, duty or function or the unexpended balance of any
21 appropriation as a result of any abolition or transfer made by or under the
22 authority of this order, such conflict shall be resolved by the governor,
23 whose decision shall be final.

24 (b) The department for children and families and the department of
25 health and environment shall respectively succeed to all property, property
26 rights and records which were used for or pertain to the performance of
27 powers, duties and functions transferred by this order.

28 Section 5. (a) No suit, action, or other proceeding, judicial or
29 administrative, lawfully commenced, or which could have been
30 commenced, by or against any state agency or program mentioned in this
31 order, or by or against any officer of the state in such officer's official
32 duties, shall abate by reason of the governmental reorganization effected
33 under the provisions of this order. The Court may allow any such suit,
34 action or other proceeding to be maintained by or against the successor of
35 any such state agency or any officer affected.

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

38 Section 6. (a) All officers and employees of the Kansas department of
39 health and environment, who immediately prior to the effective date of this
40 order, are engaged in the exercise and performance of the powers, duties
41 and functions transferred by this order, as well as all officers and
42 employees of the Kansas department of health and environment who are
43 determined by the secretary of the Kansas department for children and

1 families and the secretary of the Kansas department of health and
2 environment to be engaged in providing administrative, technical or other
3 support services that are essential to the exercise and performance of the
4 powers, duties and functions transferred by this order, are hereby
5 transferred to the department for children and families, respective to the
6 powers, duties and functions transferred to the department by this order.
7 All classified officers and employees so transferred shall retain their status
8 as classified employees.

9 (b) All officers and employees of the Kansas department for children
10 and families, who immediately prior to the effective date of this order, are
11 engaged in the exercise and performance of the powers, duties and
12 functions transferred by this order, as well as all officers and employees of
13 the Kansas department for children and families who are determined by
14 the secretary of the Kansas department of health and environment and the
15 secretary of the Kansas department for children and families to be engaged
16 in providing administrative, technical or other support services that are
17 essential to the exercise and performance of the powers, duties and
18 functions transferred by this order, are hereby transferred to the department
19 of health and environment, respective to the powers, duties and functions
20 transferred to the department by this order. All classified officers and
21 employees so transferred shall retain their status as classified employees.

22 (c) Officer and employees of the Kansas department of health and
23 environment and officers and employees of the Kansas department for
24 children and families transferred by this order shall retain all retirement
25 benefits and leave balances and rights which had accrued or vested prior to
26 the date of transfer. The service of each such officer or employee so
27 transferred shall be deemed to have been continuous. Any subsequent
28 transfers, layoffs or abolitions of classified service positions under Kansas
29 civil service act shall be made in accordance with the civil service laws
30 and any rules and regulations adopted thereunder. Nothing in this order
31 shall affect the classified status of any transferred person employed by
32 either the Kansas department of health and environment or the Kansas
33 department for children and families prior to the date of transfer.

34 (d) Notwithstanding the effective date of this order, the provisions of
35 this order prescribing the transfer of officers and employees from the
36 Kansas department of health and environment and the Kansas department
37 for children and families, the date of transfer of each such officer or
38 employee shall commence at the start of a payroll period.

39 Section 7. Except as otherwise provided by this order, all of the
40 provisions of this order shall take effect and have the force of general law
41 on July 1, 2015, unless disapproved by either house of the Kansas
42 legislature as provided by subsection 6 of article 1 of the Constitution of
43 Kansas, and unless so disapproved, this order is to be published as and

1 with the acts of the legislature and the statutes of this state.

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DONE at The Capitol in Topeka
under the Great Seal of the State of
Kansas this 16th day of January,
2015.

BY THE GOVERNOR:

SAM BROWNBACK

KRIS W. KOBACH

Secretary of State of Kansas

ERIC RUCKER

Assistant Secretary of State