

HOUSE BILL No. 2371

By Committee on Children and Seniors

2-12

1 AN ACT concerning children and minors; relating to eligibility for public
2 benefits; removing cooperation with child support from eligibility
3 requirements for food and child care assistance; exempting adults
4 enrolled in school from the 20-hour-per-week work requirement;
5 amending K.S.A. 2020 Supp. 39-709 and repealing the existing section.
6

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

8 Section 1. K.S.A. 2020 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.

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 which 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 assault;

33 (D) is involved with prevention and protection services (PPS) and has
34 an 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:

6 (A) The applicant can document an existing certification verifying
7 completion of the work program assessment;

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

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

12 (D) the applicant is enrolled in job corps;

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

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

16 (3) The 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) TANF mandatory work program applicants and recipients shall
21 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. In order to meet federal work participation
24 requirements, households need to meet at least 30 hours of participation
25 per week, at least 20 hours of which need to be primary and at least 10
26 hours may be secondary components in one parent households where the
27 youngest child is six years of age or older. Participation hours shall be 55
28 hours in two parent households (,35 hours per week if child care is not
29 used). The maximum assignment is 40 hours per week per individual. For
30 two parent families to meet the federal work participation rate both parents
31 must participate in a combined total of 55 hours per week, 50 hours of
32 which must be in primary components, or one or both parents could be
33 assigned a combined total of 35 hours per week (,30 hours of which must
34 be primary components), if department for children and families paid child
35 care is not received by the family. Single parent families with a child under
36 age six meet the federal participation requirement if the parent is engaged
37 in work or work activities for at least 20 hours per week in a primary work
38 component. The following components meet federal definitions of primary
39 hours of participation: Full or part-time employment, apprenticeship, work
40 study, self-employment, job corps, subsidized employment, work
41 experience sites, on-the-job training, supervised community service,
42 vocational education, job search and job readiness. Secondary components
43 include: Job skills training, education directly related to employment such

1 as adult basic education and English as a second language, and completion
2 of a high school diploma or GED.

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

14 (A) By either parent when two parents are in the home and the
15 household meets the two-parent definition for federal reporting purposes;

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

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

24 (D) by any person assigned to a work participation activity for
25 substance use disorders.

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

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

38 (8) Non-cooperation is the failure of the applicant or recipient to
39 comply with all requirements provided in state and federal law, federal and
40 state rules and regulations and agency policy. The period of ineligibility
41 for TANF benefits based on non-cooperation with work programs shall be
42 as follows:

43 (A) For a first penalty, three months and full cooperation with work

1 program activities;

2 (B) for a second penalty, six months and full cooperation with work
3 program activities;

4 (C) for a third penalty, one year and full cooperation with work
5 program activities; and

6 (D) for a fourth or subsequent penalty, 10 years.

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

14 (10) Non-cooperation is the failure of the applicant or recipient to
15 comply with all requirements provided in state and federal law, federal and
16 state rules and regulations and agency policy. The period of ineligibility
17 for ~~child care subsidy~~ or TANF benefits based on parents' non-cooperation
18 with child support services shall be as follows:

19 (A) For the first penalty, three months and cooperation with child
20 support services prior to regaining eligibility;

21 (B) for a second penalty, six months and cooperation with child
22 support services prior to regaining eligibility;

23 (C) for a third penalty, one year and cooperation with child support
24 services prior to regaining eligibility; and

25 (D) for a fourth penalty, 10 years.

26 ~~(11) Individuals that have not cooperated without good cause with~~
27 ~~child support services shall be ineligible to participate in the food~~
28 ~~assistance program. The period of disqualification ends once it has been~~
29 ~~determined that such individual is cooperating with child support services.~~

30 ~~(12)~~ (A) Any individual who is found to have committed fraud or is
31 found guilty of the crime of theft pursuant to K.S.A. 39-720 and K.S.A.
32 2020 Supp. 21-5801, and amendments thereto, in either the TANF or child
33 care program shall render all adults in the family unit ineligible for TANF
34 assistance. Adults in the household who were determined to have
35 committed fraud or were convicted of the crime of theft pursuant to K.S.A.
36 39-720 and K.S.A. 2020 Supp. 21-5801, and amendments thereto, shall
37 render themselves and all adult household members ineligible for their
38 lifetime for TANF, even if fraud was committed in only one program.
39 Households who have been determined to have committed fraud or were
40 convicted of the crime of theft pursuant to K.S.A. 39-720 and K.S.A. 2020
41 Supp. 21-5801, and amendments thereto, shall be required to name a
42 protective payee as approved by the secretary or the secretary's designee to
43 administer TANF benefits or food assistance on behalf of the children. No

1 adult in a household may have access to the TANF cash assistance benefit.

2 (B) Any individual that has failed to cooperate with a fraud
3 investigation shall be ineligible to participate in the TANF cash assistance
4 program and the child care subsidy program until the department for
5 children and families determines that such individual is cooperating with
6 the fraud investigation. The department for children and families shall
7 maintain a sufficient level of fraud investigative staff to enable the
8 department to conduct fraud investigations in a timely manner and in full
9 accordance with state law and department rules and regulations or policies.

10 ~~(13)~~(12) (A) Food assistance shall not be provided to any person
11 convicted of a felony offense occurring on or after July 1, 2015, which
12 includes as an element of such offense the manufacture, cultivation,
13 distribution, possession or use of a controlled substance or controlled
14 substance analog. For food assistance, the individual shall be permanently
15 disqualified if they have been convicted of a state or federal felony offense
16 occurring on or after July 1, 2015, involving possession or use of a
17 controlled substance or controlled substance analog.

18 (B) Notwithstanding the provisions of subparagraph (A), an
19 individual shall be eligible for food assistance if the individual enrolls in
20 and participates in a drug treatment program approved by the secretary,
21 submits to and passes a drug test and agrees to submit to drug testing if
22 requested by the department pursuant to a drug testing plan.

23 An individual's failure to submit to testing or failure to successfully
24 pass a drug test shall result in ineligibility for food assistance until a drug
25 test is successfully passed. Failure to successfully complete a drug
26 treatment program shall result in ineligibility for food assistance until a
27 drug treatment plan approved by the secretary is successfully completed,
28 the individual passes a drug test and agrees to submit to drug testing if
29 requested by the department pursuant to a drug testing plan.

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

33 ~~(14)~~(13) No TANF cash assistance shall be used to purchase alcohol,
34 cigarettes, tobacco products, lottery tickets, concert tickets, professional or
35 collegiate sporting event tickets or tickets for other entertainment events
36 intended for the general public or sexually oriented adult materials. No
37 TANF cash assistance shall be used in any retail liquor store, casino,
38 gaming establishment, jewelry store, tattoo parlor, massage parlor, body
39 piercing parlor, spa, nail salon, lingerie shop, tobacco paraphernalia store,
40 vapor cigarette store, psychic or fortune telling business, bail bond
41 company, video arcade, movie theater, swimming pool, cruise ship, theme
42 park, dog or horse racing facility, parimutuel facility, or sexually oriented
43 business or any retail establishment which provides adult-oriented

1 entertainment in which performers disrobe or perform in an unclothed
2 state for entertainment, or in any business or retail establishment where
3 minors under age 18 are not permitted. No TANF cash assistance shall be
4 used for purchases at points of sale outside the state of Kansas.

5 ~~(15)~~(14) (A) The secretary for children and families shall place a
6 photograph of the recipient, if agreed to by such recipient of public
7 assistance, on any Kansas benefits card issued by the Kansas department
8 for children and families that the recipient uses in obtaining food, cash or
9 any other services. When a recipient of public assistance is a minor or
10 otherwise incapacitated individual, a parent or legal guardian of such
11 recipient may have a photograph of such parent or legal guardian placed
12 on the card.

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

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

21 (D) The Kansas department for children and families shall monitor all
22 recipient requests for a Kansas benefits card replacement and, upon the
23 fourth such request in a 12-month period, send a notice alerting the
24 recipient that the recipient's account is being monitored for potential
25 suspicious activity. If a recipient makes an additional request for
26 replacement subsequent to such notice, the department shall refer the
27 investigation to the department's fraud investigation unit.

28 ~~(16)~~(15) The secretary for children and families shall adopt rules and
29 regulations:

30 (A) In determining eligibility for the child care subsidy program,
31 including an income of a cohabiting partner in a child care household; and

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

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

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

42 (iii) adult parents included in a case in which the only child receiving
43 benefits is the child of a minor parent who is working on completion of

1 high school or obtaining a GED;

2 (iv) adults who are participants in a food assistance employment and
3 training program; ~~or~~

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

6 (vi) *adults enrolled in a public or private elementary or secondary*
7 *school or postsecondary educational institution.*

8 ~~The department for children and families shall provide child care for~~
9 ~~the pursuit of any degree or certification if the occupation has at least an~~
10 ~~average job outlook listed in the occupational outlook of the U.S.~~
11 ~~department of labor, bureau of labor statistics. For occupations with less~~
12 ~~than an average job outlook, educational plans shall require approval of~~
13 ~~the secretary or secretary's designee. Child care may also be approved if~~
14 ~~the student provides verification of a specific job offer that will be~~
15 ~~available to such student upon completion of the program. Child care for~~
16 ~~post-secondary education shall be allowed for a lifetime maximum of 24~~
17 ~~months per adult. The 24 months may not have to be consecutive. Students~~
18 ~~shall be engaged in paid employment for a minimum of 15 hours per~~
19 ~~week. In a two-parent adult household, child care would not be allowed if~~
20 ~~both parents are adults and attending a formal education or training~~
21 ~~program at the same time. The household may choose which one of the~~
22 ~~parents is participating as a post-secondary student. The other parent shall~~
23 ~~meet another approvable criteria for child care subsidy.~~

24 (17)(16) (A) The secretary for children and families is prohibited
25 from requesting or implementing a waiver or program from the U.S.
26 department of agriculture for the time limited assistance provisions for
27 able-bodied adults aged 18 through 49 without dependents in a household
28 under the food assistance program. The time on food assistance for able-
29 bodied adults aged 18 through 49 without dependents in the household
30 shall be limited to three months in a 36-month period if such adults are not
31 meeting the requirements imposed by the U.S. department of agriculture
32 that they must work for at least 20 hours per week or participate in a
33 federally approved work program or its equivalent.

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

39 (C) Any recipient who has not complied with the work requirements
40 under subparagraph (B) shall be ineligible to participate in the food
41 assistance program for the following time period and until the recipient
42 complies with such work requirements:

43 (i) For a first penalty, three months;

1 (ii) for a second penalty, six months; and

2 (iii) for a third penalty and any subsequent penalty, one year.

3 ~~(18)~~(17) Eligibility for the food assistance program shall be limited to
4 those individuals who are citizens or who meet qualified non-citizen status
5 as determined by U.S. department of agriculture. Non-citizen individuals
6 who are unable or unwilling to provide qualifying immigrant
7 documentation, as defined by the U.S. department of agriculture, residing
8 within a household shall not be included when determining the household's
9 size for the purposes of assigning a benefit level to the household for food
10 assistance or comparing the household's monthly income with the income
11 eligibility standards. The gross non-exempt earned and unearned income
12 and resources of disqualified individuals shall be counted in its entirety as
13 available to the remaining household members.

14 ~~(19)~~(18) The secretary for children and families shall not enact the
15 state option from the U.S. department of agriculture for broad-based
16 categorical eligibility for households applying for food assistance
17 according to the provisions of 7 C.F.R. § 273.2(j)(2)(ii).

18 ~~(20)~~(19) No federal or state funds shall be used for television, radio
19 or billboard advertisements that are designed to promote food assistance
20 benefits and enrollment. No federal or state funding shall be used for any
21 agreements with foreign governments designed to promote food
22 assistance.

23 ~~(21)~~(20) (A) The secretary for children and families shall not apply
24 gross income standards for food assistance higher than the standards
25 specified in 7 U.S.C. § 2015(c) unless expressly required by federal law.
26 Categorical eligibility exempting households from such gross income
27 standards requirements shall not be granted for any non-cash, in-kind or
28 other benefit unless expressly required by federal law.

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

35 (c) (1) On and after January 1, 2017, the department for children and
36 families shall conduct an electronic check for any false information
37 provided on an application for TANF and other benefits programs
38 administered by the department. For TANF cash assistance, food
39 assistance and the child care subsidy program, the department shall verify
40 the identity of all adults in the assistance household.

41 (2) The department of administration shall provide monthly to the
42 Kansas department for children and families the social security numbers or
43 alternate taxpayer identification numbers of all persons who claim a

1 Kansas lottery prize in excess of \$5,000 during the reported month. The
2 Kansas department for children and families shall verify if individuals
3 with such winnings are receiving TANF cash assistance, food assistance or
4 assistance under the child care subsidy program and take appropriate
5 action. The Kansas department for children and families shall use data
6 received under this subsection solely, and for no other purpose, to
7 determine if any recipient's eligibility for benefits has been affected by
8 lottery prize winnings. The Kansas department for children and families
9 shall not publicly disclose the identity of any lottery prize winner,
10 including recipients who are determined to have illegally received
11 benefits.

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

42 (e) *Requirements for medical assistance for which federal moneys or*
43 *state moneys or both are expended.* (1) When the secretary has adopted a

1 medical care plan under which federal moneys or state moneys or both are
2 expended, medical assistance in accordance with such plan shall be
3 granted to any person who is a citizen of the United States or who is an
4 alien lawfully admitted to the United States and who is residing in the state
5 of Kansas, whose resources and income do not exceed the levels
6 prescribed by the secretary. In determining the need of an individual, the
7 secretary may provide for income and resource exemptions and protected
8 income and resource levels. Resources from inheritance shall be counted.
9 A disclaimer of an inheritance pursuant to K.S.A. 59-2291, and
10 amendments thereto, shall constitute a transfer of resources. The secretary
11 shall exempt principal and interest held in irrevocable trust pursuant to
12 K.S.A. 16-303(c), and amendments thereto, from the eligibility
13 requirements of applicants for and recipients of medical assistance. Such
14 assistance shall be known as medical assistance.

15 (2) For the purposes of medical assistance eligibility determinations
16 on or after July 1, 2004, if an applicant or recipient owns property in joint
17 tenancy with some other party and the applicant or recipient of medical
18 assistance has restricted or conditioned their interest in such property to a
19 specific and discrete property interest less than 100%, then such
20 designation will cause the full value of the property to be considered an
21 available resource to the applicant or recipient. Medical assistance
22 eligibility for receipt of benefits under the title XIX of the social security
23 act, commonly known as medicaid, shall not be expanded, as provided for
24 in the patient protection and affordable care act, public law 111-148, 124
25 stat. 119, and the health care and education reconciliation act of 2010,
26 public law 111-152, 124 stat. 1029, unless the legislature expressly
27 consents to, and approves of, the expansion of medicaid services by an act
28 of the legislature.

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

33 (B) If a trust has discretionary language, the trust shall be considered
34 to be an available resource to the extent, using the full extent of discretion,
35 the trustee may make any of the income or principal available to the
36 applicant or recipient of medical assistance. Any such discretionary trust
37 shall be considered an available resource unless:

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

40 (ii) the trust:

41 (a) Is funded from resources of a person who, at the time of such
42 funding, owed no duty of support to the applicant or recipient of medical
43 assistance; or

1 (b) is funded not more than nominally from resources of a person
2 while that person owed a duty of support to the applicant or recipient of
3 medical assistance.

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

7 (4) (A) When an applicant or recipient of medical assistance is a party
8 to a contract, agreement or accord for personal services being provided by
9 a nonlicensed individual or provider and such contract, agreement or
10 accord involves health and welfare monitoring, pharmacy assistance, case
11 management, communication with medical, health or other professionals,
12 or other activities related to home health care, long term care, medical
13 assistance benefits, or other related issues, any moneys paid under such
14 contract, agreement or accord shall be considered to be an available
15 resource unless the following restrictions are met:

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

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

21 (iii) if no similarly situated nonlicensed individuals or situations can
22 be found, the value of services will be based on federal hourly minimum
23 wage standards;

24 (iv) such individual providing the services will report all receipts of
25 moneys as income to the appropriate state and federal governmental
26 revenue agencies;

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

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

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

33 (B) When an applicant or recipient of medical assistance is a party to
34 a written contract for personal services being provided by a licensed health
35 professional or facility and such contract involves health and welfare
36 monitoring, pharmacy assistance, case management, communication with
37 medical, health or other professionals, or other activities related to home
38 health care, long term care, medical assistance benefits or other related
39 issues, any moneys paid in advance of receipt of services for such
40 contracts shall be considered to be an available resource.

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

43 (f) *Eligibility for medical assistance of resident receiving medical*

1 *care outside state.* A person who is receiving medical care including long-
2 term care outside of Kansas whose health would be endangered by the
3 postponement of medical care until return to the state or by travel to return
4 to Kansas, may be determined eligible for medical assistance if such
5 individual is a resident of Kansas and all other eligibility factors are met.
6 Persons who are receiving medical care on an ongoing basis in a long-term
7 medical care facility in a state other than Kansas and who do not return to
8 a care facility in Kansas when they are able to do so, shall no longer be
9 eligible to receive assistance in Kansas unless such medical care is not
10 available in a comparable facility or program providing such medical care
11 in Kansas. For persons who are minors or who are under guardianship, the
12 actions of the parent or guardian shall be deemed to be the actions of the
13 child or ward in determining whether or not the person is remaining
14 outside the state voluntarily.

15 (g) *Medical assistance; assignment of rights to medical support and*
16 *limited power of attorney; recovery from estates of deceased recipients.* (1)
17 (A) Except as otherwise provided in K.S.A. 39-786 and 39-787, and
18 amendments thereto, or as otherwise authorized on and after September
19 30, 1989, under section 303 of the federal medicare catastrophic coverage
20 act of 1988, whichever is applicable, by applying for or receiving medical
21 assistance under a medical care plan in which federal funds are expended,
22 any accrued, present or future rights to support and any rights to payment
23 for medical care from a third party of an applicant or recipient and any
24 other family member for whom the applicant is applying shall be deemed
25 to have been assigned to the secretary on behalf of the state. The
26 assignment shall automatically become effective upon the date of approval
27 for such assistance without the requirement that any document be signed
28 by the applicant or recipient. By applying for or receiving medical
29 assistance the applicant or recipient is also deemed to have appointed the
30 secretary, or the secretary's designee, as an attorney in fact to perform the
31 specific act of negotiating and endorsing all drafts, checks, money orders
32 or other negotiable instruments, representing payments received by the
33 secretary in on behalf of any person applying for, receiving or having
34 received such assistance. This limited power of attorney shall be effective
35 from the date the secretary approves the application for assistance and
36 shall remain in effect until the assignment has been terminated in full. The
37 assignment of any rights to payment for medical care from a third party
38 under this subsection shall not prohibit a health care provider from directly
39 billing an insurance carrier for services rendered if the provider has not
40 submitted a claim covering such services to the secretary for payment.
41 Support amounts collected on behalf of persons whose rights to support
42 are assigned to the secretary only under this subsection and no other shall
43 be distributed pursuant to K.S.A. 39-756(d), and amendments thereto,

1 except that any amounts designated as medical support shall be retained by
2 the secretary for repayment of the unreimbursed portion of assistance.
3 Amounts collected pursuant to the assignment of rights to payment for
4 medical care from a third party shall also be retained by the secretary for
5 repayment of the unreimbursed portion of assistance.

6 (B) Notwithstanding the provisions of subparagraph (A), the
7 secretary of health and environment, or the secretary's designee, is hereby
8 authorized to and shall exercise any of the powers specified in
9 subparagraph (A) in relation to performance of such secretary's duties
10 pertaining to medical subrogation, estate recovery or any other duties
11 assigned to such secretary in article 74 of chapter 75 of the Kansas Statutes
12 Annotated, and amendments thereto.

13 (2) The amount of any medical assistance paid after June 30, 1992,
14 under the provisions of subsection (e) is:

15 (A) A claim against the property or any interest therein belonging to
16 and a part of the estate of any deceased recipient or, if there is no estate,
17 the estate of the surviving spouse, if any, shall be charged for such medical
18 assistance paid to either or both; and

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

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

7 (A) If an individual receives any medical assistance before July 1,
8 2004, pursuant to article 7 of chapter 39 of the Kansas Statutes Annotated,
9 and amendments thereto, which forms the basis for a claim under
10 paragraph (2), such claim is limited to the individual's probatable estate as
11 defined by applicable law; and

12 (B) if an individual receives any medical assistance on or after July 1,
13 2004, pursuant to article 7 of chapter 39 of the Kansas Statutes Annotated,
14 and amendments thereto, which forms the basis for a claim under
15 paragraph (2), such claim shall apply to the individual's medical assistance
16 estate. The medical assistance estate is defined as including all real and
17 personal property and other assets in which the deceased individual had
18 any legal title or interest immediately before or at the time of death to the
19 extent of that interest or title. The medical assistance estate includes,
20 without limitation assets conveyed to a survivor, heir or assign of the
21 deceased recipient through joint tenancy, tenancy in common,
22 survivorship, transfer-on-death deed, payable-on-death contract, life estate,
23 trust, annuities or similar arrangement.

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

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

35 (B) The secretary of health and environment or the secretary's
36 designee may place a lien on any interest in real property owned by a
37 recipient of medical assistance during the lifetime of such recipient. Such
38 lien may be filed only after notice and an opportunity for a hearing has
39 been given. Such lien may be enforced only upon competent medical
40 testimony that the recipient cannot reasonably be expected to be
41 discharged and returned home. A six-month period of compensated
42 inpatient care at a nursing home or other medical institution shall
43 constitute a determination by the department of health and environment

1 that the recipient cannot reasonably be expected to be discharged and
2 returned home. To return home means the recipient leaves the nursing or
3 medical facility and resides in the home on which the lien has been placed
4 for a continuous period of at least 90 days without being readmitted as an
5 inpatient to a nursing or medical facility. The amount of the lien shall be
6 for the amount of assistance paid by the department of health and
7 environment until the time of the filing of the lien and for any amount paid
8 thereafter for such medical assistance to the recipient. After the lien is filed
9 against any real property owned by the recipient, such lien will be
10 dissolved if the recipient is discharged, returns home and resides upon the
11 real property to which the lien is attached for a continuous period of at
12 least 90 days without being readmitted as an inpatient to a nursing or
13 medical facility. If the recipient is readmitted as an inpatient to a nursing or
14 medical facility for a continuous period of less than 90 days, another
15 continuous period of at least 90 days shall be completed prior to
16 dissolution of the lien.

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

- 23 (A) After the death of the surviving spouse of the recipient;
24 (B) when there is no child of the recipient, natural or adopted, who is
25 20 years of age or less residing in the home;
26 (C) when there is no adult child of the recipient, natural or adopted,
27 who is blind or disabled residing in the home; or
28 (D) when no brother or sister of the recipient is lawfully residing in
29 the home, who has resided there for at least one year immediately before
30 the date of the recipient's admission to the nursing or medical facility, and
31 has resided there on a continuous basis since that time.

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

- 35 (A) The lien is satisfied. The recipient, the heirs, personal
36 representative or assigns of the recipient may discharge such lien at any
37 time by paying the amount of the lien to the secretary of health and
38 environment or the secretary's designee;
39 (B) the lien is terminated by foreclosure of prior lien of record or
40 settlement action taken in lieu of foreclosure; or
41 (C) the value of the real property is consumed by the lien, at which
42 time the secretary of health and environment or the secretary's designee
43 may force the sale for the real property to satisfy the lien.

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

9 (8) Within seven days of receipt of notice by the secretary for
10 children and families or the secretary's designee of the death of a recipient
11 of medical assistance under this subsection, the secretary for children and
12 families or the secretary's designee shall give notice of such recipient's
13 death to the secretary of health and environment or the secretary's
14 designee.

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

20 (h) *Placement under the revised Kansas code for care of children or*
21 *revised Kansas juvenile justice code; assignment of support rights and*
22 *limited power of attorney.* In any case in which the secretary for children
23 and families pays for the expenses of care and custody of a child pursuant
24 to K.S.A. 2020 Supp. 38-2201 et seq. or 38-2301 et seq., and amendments
25 thereto, including the expenses of any foster care placement, an
26 assignment of all past, present and future support rights of the child in
27 custody possessed by either parent or other person entitled to receive
28 support payments for the child is, by operation of law, conveyed to the
29 secretary. Such assignment shall become effective upon placement of a
30 child in the custody of the secretary or upon payment of the expenses of
31 care and custody of a child by the secretary without the requirement that
32 any document be signed by the parent or other person entitled to receive
33 support payments for the child. When the secretary pays for the expenses
34 of care and custody of a child or a child is placed in the custody of the
35 secretary, the parent or other person entitled to receive support payments
36 for the child is also deemed to have appointed the secretary, or the
37 secretary's designee, as attorney in fact to perform the specific act of
38 negotiating and endorsing all drafts, checks, money orders or other
39 negotiable instruments representing support payments received by the
40 secretary on behalf of the child. This limited power of attorney shall be
41 effective from the date the assignment to support rights becomes effective
42 and shall remain in effect until the assignment of support rights has been
43 terminated in full.

1 (i) No person who voluntarily quits employment or who is fired from
2 employment due to gross misconduct as defined by rules and regulations
3 of the secretary or who is a fugitive from justice by reason of a felony
4 conviction or charge or violation of a condition of probation or parole
5 imposed under federal or state law shall be eligible to receive public
6 assistance benefits in this state. Any recipient of public assistance who
7 fails to timely comply with monthly reporting requirements under criteria
8 and guidelines prescribed by rules and regulations of the secretary shall be
9 subject to a penalty established by the secretary by rules and regulations.

10 (j) If the applicant or recipient of temporary assistance for needy
11 families is a mother of the dependent child, as a condition of the mother's
12 eligibility for temporary assistance for needy families the mother shall
13 identify by name and, if known, by current address the father of the
14 dependent child except that the secretary may adopt by rules and
15 regulations exceptions to this requirement in cases of undue hardship. Any
16 recipient of temporary assistance for needy families who fails to cooperate
17 with requirements relating to child support services under criteria and
18 guidelines prescribed by rules and regulations of the secretary shall be
19 subject to a penalty established by the secretary.

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

42 (l) (1) A program of drug screening for applicants for cash assistance
43 as a condition of eligibility for cash assistance and persons receiving cash

1 assistance as a condition of continued receipt of cash assistance shall be
2 established, subject to applicable federal law, by the secretary for children
3 and families on and before January 1, 2014. Under such program of drug
4 screening, the secretary for children and families shall order a drug
5 screening of an applicant for or a recipient of cash assistance at any time
6 when reasonable suspicion exists that such applicant for or recipient of
7 cash assistance is unlawfully using a controlled substance or controlled
8 substance analog. The secretary for children and families may use any
9 information obtained by the secretary for children and families to
10 determine whether such reasonable suspicion exists, including, but not
11 limited to, an applicant's or recipient's demeanor, missed appointments and
12 arrest or other police records, previous employment or application for
13 employment in an occupation or industry that regularly conducts drug
14 screening, termination from previous employment due to unlawful use of a
15 controlled substance or controlled substance analog or prior drug screening
16 records of the applicant or recipient indicating unlawful use of a controlled
17 substance or controlled substance analog.

18 (2) Any applicant for or recipient of cash assistance whose drug
19 screening results in a positive test may request that the drug screening
20 specimen be sent to a different drug testing facility for an additional drug
21 screening. Any applicant for or recipient of cash assistance who requests
22 an additional drug screening at a different drug testing facility shall be
23 required to pay the cost of drug screening. Such applicant or recipient who
24 took the additional drug screening and who tested negative for unlawful
25 use of a controlled substance and controlled substance analog shall be
26 reimbursed for the cost of such additional drug screening.

27 (3) Any applicant for or recipient of cash assistance who tests
28 positive for unlawful use of a controlled substance or controlled substance
29 analog shall be required to complete a substance abuse treatment program
30 approved by the secretary for children and families, secretary of labor or
31 secretary of commerce, and a job skills program approved by the secretary
32 for children and families, secretary of labor or secretary of commerce.
33 Subject to applicable federal laws, any applicant for or recipient of cash
34 assistance who fails to complete or refuses to participate in the substance
35 abuse treatment program or job skills program as required under this
36 subsection shall be ineligible to receive cash assistance until completion of
37 such substance abuse treatment and job skills programs. Upon completion
38 of both substance abuse treatment and job skills programs, such applicant
39 for or recipient of cash assistance may be subject to periodic drug
40 screening, as determined by the secretary for children and families. Upon a
41 second positive test for unlawful use of a controlled substance or
42 controlled substance analog, a recipient of cash assistance shall be ordered
43 to complete again a substance abuse treatment program and job skills

1 program, and shall be terminated from cash assistance for a period of 12
2 months, or until such recipient of cash assistance completes both substance
3 abuse treatment and job skills programs, whichever is later. Upon a third
4 positive test for unlawful use of a controlled substance or controlled
5 substance analog, a recipient of cash assistance shall be terminated from
6 cash assistance, subject to applicable federal law.

7 (4) If an applicant for or recipient of cash assistance is ineligible for
8 or terminated from cash assistance as a result of a positive test for
9 unlawful use of a controlled substance or controlled substance analog, and
10 such applicant for or recipient of cash assistance is the parent or legal
11 guardian of a minor child, an appropriate protective payee shall be
12 designated to receive cash assistance on behalf of such child. Such parent
13 or legal guardian of the minor child may choose to designate an individual
14 to receive cash assistance for such parent's or legal guardian's minor child,
15 as approved by the secretary for children and families. Prior to the
16 designated individual receiving any cash assistance, the secretary for
17 children and families shall review whether reasonable suspicion exists that
18 such designated individual is unlawfully using a controlled substance or
19 controlled substance analog.

20 (A) In addition, any individual designated to receive cash assistance
21 on behalf of an eligible minor child shall be subject to drug screening at
22 any time when reasonable suspicion exists that such designated individual
23 is unlawfully using a controlled substance or controlled substance analog.
24 The secretary for children and families may use any information obtained
25 by the secretary for children and families to determine whether such
26 reasonable suspicion exists, including, but not limited to, the designated
27 individual's demeanor, missed appointments and arrest or other police
28 records, previous employment or application for employment in an
29 occupation or industry that regularly conducts drug screening, termination
30 from previous employment due to unlawful use of a controlled substance
31 or controlled substance analog or prior drug screening records of the
32 designated individual indicating unlawful use of a controlled substance or
33 controlled substance analog.

34 (B) Any designated individual whose drug screening results in a
35 positive test may request that the drug screening specimen be sent to a
36 different drug testing facility for an additional drug screening. Any
37 designated individual who requests an additional drug screening at a
38 different drug testing facility shall be required to pay the cost of drug
39 screening. Such designated individual who took the additional drug
40 screening and who tested negative for unlawful use of a controlled
41 substance and controlled substance analog shall be reimbursed for the cost
42 of such additional drug screening.

43 (C) Upon any positive test for unlawful use of a controlled substance

1 or controlled substance analog, the designated individual shall not receive
2 cash assistance on behalf of the parent's or legal guardian's minor child,
3 and another designated individual shall be selected by the secretary for
4 children and families to receive cash assistance on behalf of such parent's
5 or legal guardian's minor child.

6 (5) If a person has been convicted under federal or state law of any
7 offense which is classified as a felony by the law of the jurisdiction and
8 which has as an element of such offense the manufacture, cultivation,
9 distribution, possession or use of a controlled substance or controlled
10 substance analog, and the date of conviction is on or after July 1, 2013,
11 such person shall thereby become forever ineligible to receive any cash
12 assistance under this subsection unless such conviction is the person's first
13 conviction. First-time offenders convicted under federal or state law of any
14 offense which is classified as a felony by the law of the jurisdiction and
15 which has as an element of such offense the manufacture, cultivation,
16 distribution, possession or use of a controlled substance or controlled
17 substance analog, and the date of conviction is on or after July 1, 2013,
18 such person shall become ineligible to receive cash assistance for five
19 years from the date of conviction.

20 (6) Except for hearings before the Kansas department for children
21 and families or, the results of any drug screening administered as part of
22 the drug screening program authorized by this subsection shall be
23 confidential and shall not be disclosed publicly.

24 (7) The secretary for children and families may adopt such rules and
25 regulations as are necessary to carry out the provisions of this subsection.

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

29 (9) As used in this subsection:

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

34 (B) "Controlled substance" means the same as in K.S.A. 2020 Supp.
35 21-5701, and amendments thereto, and 21 U.S.C. § 802.

36 (C) "Controlled substance analog" means the same as in K.S.A. 2020
37 Supp. 21-5701, and amendments thereto.

38 Sec. 2. K.S.A. 2020 Supp. 39-709 is hereby repealed.

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