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**HOUSE BILL No. 2379**

By Representatives Alldritt, Barnes, Crow, Findley, Flaharty, Garner,  
Kuether, Loganbill, McClure, Reardon, Storm and Toelkes

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AN ACT concerning social welfare; relating to eligibility for public assistance; amending K.S.A. 39-709 and repealing the existing section.

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

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

(1) Has insufficient income or resources to provide a reasonable subsistence compatible with decency and health. Where a husband and wife are living together, the combined income or resources of both shall be considered in determining the eligibility of either or both for such assistance unless otherwise prohibited by law. The secretary, in determining need of any applicant for or recipient of assistance shall not take into account the financial responsibility of any individual for any applicant or recipient of assistance unless such applicant or recipient is such individual's spouse or such individual's minor child or minor stepchild if the stepchild is living with such individual. *The secretary in determining the need of an individual for assistance shall take into consideration the monthly cost of prescription drugs to that individual and shall deduct that verified amount from an applicant's reported monthly income.* The secretary in determining need of an individual may provide such income and resource exemptions as may be permitted by federal law. For purposes of eligibility for aid for families with dependent children, for food stamp assistance and for any other assistance provided through the department of social and rehabilitation services under which federal moneys are expended, the secretary of social and rehabilitation services shall consider one motor vehicle owned by the applicant for assistance, regardless of the value of such vehicle, as exempt personal property and shall consider any equity in any additional motor vehicle owned by the applicant for assistance to be a nonexempt resource of the applicant for assistance.

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

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

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

41 (d) *Eligibility requirements for general assistance, the cost of which*  
42 *is not shared by the federal government.* (1) General assistance may be  
43 granted to eligible persons who do not qualify for financial assistance in

1 a program in which the federal government participates and who satisfy  
2 the additional requirements prescribed by or under this subsection (d).

3 (A) To qualify for general assistance in any form a needy person must  
4 have insufficient income or resources to provide a reasonable subsistence  
5 compatible with decency and health and, except as provided for transi-  
6 tional assistance, be a member of a family in which a minor child or a  
7 pregnant woman resides or be unable to engage in employment. The  
8 secretary shall adopt rules and regulations prescribing criteria for estab-  
9 lishing when a minor child may be considered to be living with a family  
10 and whether a person is able to engage in employment, including such  
11 factors as age or physical or mental condition. Eligibility for general as-  
12 sistance, other than transitional assistance, is limited to families in which  
13 a minor child or a pregnant woman resides or to an adult or family in  
14 which all legally responsible family members are unable to engage in  
15 employment. Where a husband and wife are living together the combined  
16 income or resources of both shall be considered in determining the eli-  
17 gibility of either or both for such assistance unless otherwise prohibited  
18 by law. The secretary in determining need of any applicant for or recipient  
19 of general assistance shall not take into account the financial responsibility  
20 of any individual for any applicant or recipient of general assistance unless  
21 such applicant or recipient is such individual's spouse or such individual's  
22 minor child or a minor stepchild if the stepchild is living with such indi-  
23 vidual. *The secretary in determining the need of an individual for assis-*  
24 *tance shall take into consideration the monthly cost of prescription drugs*  
25 *to that individual and shall deduct that verified amount from an appli-*  
26 *cant's reported monthly income.* In determining the need of an individual,  
27 the secretary may provide for income and resource exemptions.

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

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

38 (3) In addition to the other requirements prescribed under this sub-  
39 section (d), the secretary shall adopt rules and regulations which establish  
40 community work experience program requirements for eligibility for the  
41 receipt of general assistance in any form and which establish penalties to  
42 be imposed when a work assignment under a community work experience  
43 program requirement is not completed without good cause. The secretary

1 may adopt rules and regulations establishing exemptions from any such  
2 community work experience program requirements. A first time failure  
3 to complete such a work assignment requirement shall result in ineligi-  
4 bility to receive general assistance for a period fixed by such rules and  
5 regulations of not more than three calendar months. A subsequent failure  
6 to complete such a work assignment requirement shall result in a period  
7 fixed by such rules and regulations of ineligibility of not more than six  
8 calendar months.

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

33 (e) *Requirements for medical assistance for which federal moneys or*  
34 *state moneys or both are expended.* When the secretary has adopted a  
35 medical care plan under which federal moneys or state moneys or both  
36 are expended, medical assistance in accordance with such plan shall be  
37 granted to any person who is a citizen of the United States or who is an  
38 alien lawfully admitted to the United States and who is residing in the  
39 state of Kansas, whose resources and income do not exceed the levels  
40 prescribed by the secretary. In determining the need of an individual, the  
41 secretary may provide for income and resource exemptions and protected  
42 income and resource levels. Resources from inheritance shall be counted.  
43 A disclaimer of an inheritance pursuant to K.S.A. 59-2291, and amend-

1 ments thereto, shall constitute a transfer of resources. *The secretary in*  
2 *determining the need of an individual for medical assistance shall take*  
3 *into consideration the monthly cost of prescription drugs to that individ-*  
4 *ual and shall deduct that verified amount from an applicant's reported*  
5 *monthly income.* The secretary shall exempt principal and interest held  
6 in irrevocable trust pursuant to subsection (c) of K.S.A. 16-303, and  
7 amendments thereto, from the eligibility requirements of applicants for  
8 and recipients of medical assistance. Such assistance shall be known as  
9 medical assistance.

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

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

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

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

1 for the implementation and administration of the medical assistance re-  
2 covery program under this subsection (g).

3 (h) *Placement under code for care of children or juvenile offenders*  
4 *code; assignment of support rights and limited power of attorney.* In any  
5 case in which the secretary of social and rehabilitation services pays for  
6 the expenses of care and custody of a child pursuant to K.S.A. 38-1501  
7 *et seq.* or 38-1601 *et seq.*, and amendments thereto, including the ex-  
8 penses of any foster care placement, an assignment of all past, present  
9 and future support rights of the child in custody possessed by either  
10 parent or other person entitled to receive support payments for the child  
11 is, by operation of law, conveyed to the secretary. Such assignment shall  
12 become effective upon placement of a child in the custody of the secretary  
13 or upon payment of the expenses of care and custody of a child by the  
14 secretary without the requirement that any document be signed by the  
15 parent or other person entitled to receive support payments for the child.  
16 When the secretary pays for the expenses of care and custody of a child  
17 or a child is placed in the custody of the secretary, the parent or other  
18 person entitled to receive support payments for the child is also deemed  
19 to have appointed the secretary, or the secretary's designee, as attorney  
20 in fact to perform the specific act of negotiating and endorsing all drafts,  
21 checks, money orders or other negotiable instruments representing sup-  
22 port payments received by the secretary on behalf of the child. This lim-  
23 ited power of attorney shall be effective from the date the assignment to  
24 support rights becomes effective and shall remain in effect until the as-  
25 signment of support rights has been terminated in full.

26 (i) No person who voluntarily quits employment or who is fired from  
27 employment due to gross misconduct as defined by rules and regulations  
28 of the secretary or who is a fugitive from justice by reason of a felony  
29 conviction or charge shall be eligible to receive public assistance benefits  
30 in this state. Any recipient of public assistance who fails to timely comply  
31 with monthly reporting requirements under criteria and guidelines pre-  
32 scribed by rules and regulations of the secretary shall be subject to a  
33 penalty established by the secretary by rules and regulations.

34 (j) If the applicant or recipient of aid to families with dependent chil-  
35 dren is a mother of the dependent child, as a condition of the mother's  
36 eligibility for aid to families with dependent children the mother shall  
37 identify by name and, if known, by current address the father of the  
38 dependent child except that the secretary may adopt by rules and regu-  
39 lations exceptions to this requirement in cases of undue hardship. Any  
40 recipient of aid to families with dependent children who fails to cooperate  
41 with requirements relating to child support enforcement under criteria  
42 and guidelines prescribed by rules and regulations of the secretary shall  
43 be subject to a penalty established by the secretary by rules and regula-

1 tions which penalty shall progress to ineligibility for the family after three  
2 months of noncooperation.

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

25 Sec. 2. K.S.A. 39-709 is hereby repealed.

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

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