

## SENATE BILL No. 39

By Committee on Public Health and Welfare

1-20

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1 AN ACT relating to the powers, duties and functions transferred to the  
2 Kansas department for aging and disability services from the Kansas  
3 department for children and families and the department of health and  
4 environment; updating references and corresponding changes due to the  
5 Executive Reorganization Order No. 41, published in chapter 185 of  
6 the 2012 Session Laws of Kansas; amending K.S.A. 75-5308d, 75-  
7 5309, 75-5364, 76-157, 76-158 and 76-12a24 and K.S.A. 2014 Supp.  
8 8-2,144, 8-1025, 21-5909, 36-502, 38-2006, 38-2212, 39-1702, 40-  
9 4702, 59-29a24, 65-689, 65-6233, 75-7d01, 75-5321a, 75-6524 and 75-  
10 7033 and repealing the existing sections.

11

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

13 Section 1. K.S.A. 2014 Supp. 8-2,144 is hereby amended to read as  
14 follows: 8-2,144.(a) Driving a commercial motor vehicle under the  
15 influence is operating or attempting to operate any commercial motor  
16 vehicle, as defined in K.S.A. 8-2,128, and amendments thereto, within this  
17 state while:

18 (1) The alcohol concentration in the person's blood or breath, as  
19 shown by any competent evidence, including other competent evidence, as  
20 defined in ~~paragraph (1) of subsection (f) of~~ K.S.A. 8-1013(f)(1), and  
21 amendments thereto, is .04 or more;

22 (2) the alcohol concentration in the person's blood or breath, as  
23 measured within three hours of the time of driving a commercial motor  
24 vehicle, is .04 or more; or

25 (3) committing a violation of ~~subsection (a) of~~ K.S.A. 8-1567(a), and  
26 amendments thereto, or the ordinance of a city or resolution of a county  
27 which prohibits any of the acts prohibited thereunder.

28 (b) (1) Driving a commercial motor vehicle under the influence is:

29 (A) On a first conviction a class B, nonperson misdemeanor. The  
30 person convicted shall be sentenced to not less than 48 consecutive hours  
31 nor more than six months' imprisonment, or in the court's discretion, 100  
32 hours of public service, and fined not less than \$750 nor more than \$1,000.  
33 The person convicted shall serve at least 48 consecutive hours'  
34 imprisonment or 100 hours of public service either before or as a condition  
35 of any grant of probation, suspension or reduction of sentence or parole or  
36 other release;

1 (B) on a second conviction a class A, nonperson misdemeanor. The  
2 person convicted shall be sentenced to not less than 90 days nor more than  
3 one year's imprisonment and fined not less than \$1,250 nor more than  
4 \$1,750. The person convicted shall serve at least five consecutive days'  
5 imprisonment before the person is granted probation, suspension or  
6 reduction of sentence or parole or is otherwise released. The five days'  
7 imprisonment mandated by this subsection may be served in a work  
8 release program only after such person has served 48 consecutive hours'  
9 imprisonment, provided such work release program requires such person  
10 to return to confinement at the end of each day in the work release  
11 program. The person convicted, if placed into a work release program,  
12 shall serve a minimum of 120 hours of confinement. Such 120 hours of  
13 confinement shall be a period of at least 48 consecutive hours of  
14 imprisonment followed by confinement hours at the end of and continuing  
15 to the beginning of the offender's work day. The court may place the  
16 person convicted under a house arrest program pursuant to K.S.A. 2014  
17 Supp. 21-6609, and amendments thereto, to serve the five days'  
18 imprisonment mandated by this subsection only after such person has  
19 served 48 consecutive hours' imprisonment. The person convicted, if  
20 placed under house arrest, shall be monitored by an electronic monitoring  
21 device, which verifies the offender's location. The offender shall serve a  
22 minimum of 120 hours of confinement within the boundaries of the  
23 offender's residence. Any exceptions to remaining within the boundaries of  
24 the offender's residence provided for in the house arrest agreement shall  
25 not be counted as part of the 120 hours; and

26 (C) on a third or subsequent conviction a nonperson felony. The  
27 person convicted shall be sentenced to not less than 90 days nor more than  
28 one year's imprisonment and fined not less than \$1,750 nor more than  
29 \$2,500. The person convicted shall not be eligible for release on probation,  
30 suspension or reduction of sentence or parole until the person has served at  
31 least 90 days' imprisonment. The 90 days' imprisonment mandated by this  
32 subsection may be served in a work release program only after such person  
33 has served 48 consecutive hours' imprisonment, provided such work  
34 release program requires such person to return to confinement at the end of  
35 each day in the work release program. The person convicted, if placed into  
36 a work release program, shall serve a minimum of 2,160 hours of  
37 confinement. Such 2,160 hours of confinement shall be a period of at least  
38 48 consecutive hours of imprisonment followed by confinement hours at  
39 the end of and continuing to the beginning of the offender's work day. The  
40 court may place the person convicted under a house arrest program  
41 pursuant to K.S.A. 2014 Supp. 21-6609, and amendments thereto, to serve  
42 the 90 days' imprisonment mandated by this subsection only after such  
43 person has served 48 consecutive hours' imprisonment. The person

1 convicted, if placed under house arrest, shall be monitored by an electronic  
2 monitoring device, which verifies the offender's location. The offender  
3 shall serve a minimum of 2,160 hours of confinement within the  
4 boundaries of the offender's residence. Any exceptions to remaining within  
5 the boundaries of the offender's residence provided for in the house arrest  
6 agreement shall not be counted as part of the 2,160 hours.

7 (2) In addition, for any conviction pursuant to subsection (b)(1)(C), at  
8 the time of the filing of the judgment form or journal entry as required by  
9 K.S.A. 22-3426 or K.S.A. 2014 Supp. 21-6711, and amendments thereto,  
10 the court shall cause a certified copy to be sent to the officer having the  
11 offender in charge. The court shall determine whether the offender, upon  
12 release from imprisonment, shall be supervised by community correctional  
13 services or court services based upon the risk and needs of the offender.  
14 The risk and needs of the offender shall be determined by use of a risk  
15 assessment tool specified by the Kansas sentencing commission. The law  
16 enforcement agency maintaining custody and control of a defendant for  
17 imprisonment shall cause a certified copy of the judgment form or journal  
18 entry to be sent to the supervision office designated by the court and upon  
19 expiration of the term of imprisonment shall deliver the defendant to a  
20 location designated by the supervision office designated by the court. After  
21 the term of imprisonment imposed by the court, the person shall be placed  
22 on supervision to community correctional services or court services, as  
23 determined by the court, for a mandatory one-year period of supervision,  
24 which such period of supervision shall not be reduced. During such  
25 supervision, the person shall be required to participate in a  
26 multidisciplinary model of services for substance use disorders facilitated  
27 by a *Kansas department of social and rehabilitation for aging and*  
28 *disability* services designated care coordination agency to include  
29 assessment and, if appropriate, referral to a community based substance  
30 use disorder treatment including recovery management and mental health  
31 counseling as needed. The multidisciplinary team shall include the  
32 designated care coordination agency, the supervision officer, the ~~social and~~  
33 ~~rehabilitation~~ *aging and disability* services department designated  
34 treatment provider and the offender. Any violation of the conditions of  
35 such supervision may subject such person to revocation of supervision and  
36 imprisonment in jail for the remainder of the period of imprisonment, the  
37 remainder of the supervision period, or any combination or portion  
38 thereof.

39 (3) In addition, prior to sentencing for any conviction pursuant to  
40 subsection (b)(1)(A) or (b)(1)(B), the court shall order the person to  
41 participate in an alcohol and drug evaluation conducted by a provider in  
42 accordance with K.S.A. 8-1008, and amendments thereto. The person shall  
43 be required to follow any recommendation made by the provider after such

1 evaluation, unless otherwise ordered by the court.

2 (c) Any person convicted of a violation of this section, or a violation  
3 of a city ordinance or county resolution prohibiting the acts prohibited by  
4 this section, who had one or more children under the age of 14 years in the  
5 vehicle at the time of the offense shall have such person's punishment  
6 enhanced by one month of imprisonment. This imprisonment shall be  
7 served consecutively to any other minimum mandatory penalty imposed  
8 for a violation of this section, or a violation of a city ordinance or county  
9 resolution prohibiting the acts prohibited by this section. Any enhanced  
10 penalty imposed shall not exceed the maximum sentence allowable by law.  
11 During the service of the enhanced penalty, the judge may order the person  
12 on house arrest, work release or other conditional release.

13 (d) If a person is charged with a violation of this section involving  
14 drugs, the fact that the person is or has been entitled to use the drug under  
15 the laws of this state shall not constitute a defense against the charge.

16 (e) The court may establish the terms and time for payment of any  
17 fines, fees, assessments and costs imposed pursuant to this section. Any  
18 assessment and costs shall be required to be paid not later than 90 days  
19 after imposed, and any remainder of the fine shall be paid prior to the final  
20 release of the defendant by the court.

21 (f) In lieu of payment of a fine imposed pursuant to this section, the  
22 court may order that the person perform community service specified by  
23 the court. The person shall receive a credit on the fine imposed in an  
24 amount equal to \$5 for each full hour spent by the person in the specified  
25 community service. The community service ordered by the court shall be  
26 required to be performed not later than one year after the fine is imposed  
27 or by an earlier date specified by the court. If by the required date the  
28 person performs an insufficient amount of community service to reduce to  
29 zero the portion of the fine required to be paid by the person, the  
30 remaining balance of the fine shall become due on that date.

31 (g) Prior to filing a complaint alleging a violation of this section, a  
32 prosecutor shall request and shall receive from the: (1) Division a record  
33 of all prior convictions obtained against such person for any violations of  
34 any of the motor vehicle laws of this state; and (2) Kansas bureau of  
35 investigation central repository all criminal history record information  
36 concerning such person.

37 (h) The court shall electronically report every conviction of a  
38 violation of this section and every diversion agreement entered into in lieu  
39 of further criminal proceedings on a complaint alleging a violation of this  
40 section to the division. Prior to sentencing under the provisions of this  
41 section, the court shall request and shall receive from the: (1) Division a  
42 record of all prior convictions obtained against such person for any  
43 violation of any of the motor vehicle laws of this state; and (2) Kansas

1 bureau of investigation central repository all criminal history record  
2 information concerning such person.

3 (i) Upon conviction of a person of a violation of this section or a  
4 violation of a city ordinance or county resolution prohibiting the acts  
5 prohibited by this section, the division, upon receiving a report of  
6 conviction, shall: (1) Disqualify the person from driving a commercial  
7 motor vehicle under K.S.A. 8-2,142, and amendments thereto; and (2)  
8 suspend, restrict or suspend and restrict the person's driving privileges as  
9 provided by K.S.A. 8-1014, and amendments thereto.

10 (j) (1) Nothing contained in this section shall be construed as  
11 preventing any city from enacting ordinances, or any county from adopting  
12 resolutions, declaring acts prohibited or made unlawful by this section as  
13 unlawful or prohibited in such city or county and prescribing penalties for  
14 violation thereof.

15 (2) The minimum penalty prescribed by any such ordinance or  
16 resolution shall not be less than the minimum penalty prescribed by this  
17 section for the same violation, and the maximum penalty in any such  
18 ordinance or resolution shall not exceed the maximum penalty prescribed  
19 for the same violation.

20 (3) Any such ordinance or resolution shall authorize the court to order  
21 that the convicted person pay restitution to any victim who suffered loss  
22 due to the violation for which the person was convicted.

23 (k) (1) Upon the filing of a complaint, citation or notice to appear  
24 alleging a person has violated a city ordinance prohibiting the acts  
25 prohibited by this section, and prior to conviction thereof, a city attorney  
26 shall request and shall receive from the: (A) Division of vehicles a record  
27 of all prior convictions obtained against such person for any violations of  
28 any of the motor vehicle laws of this state; and (B) Kansas bureau of  
29 investigation central repository all criminal history record information  
30 concerning such person.

31 (2) If the elements of such ordinance violation are the same as the  
32 elements of a violation of this section that would constitute, and be  
33 punished as, a felony, the city attorney shall refer the violation to the  
34 appropriate county or district attorney for prosecution. The county or  
35 district attorney shall accept such referral and pursue a disposition of such  
36 violation, and shall not refer any such violation back to the city attorney.

37 (l) No plea bargaining agreement shall be entered into nor shall any  
38 judge approve a plea bargaining agreement entered into for the purpose of  
39 permitting a person charged with a violation of this section, or a violation  
40 of any ordinance of a city or resolution of any county in this state which  
41 prohibits the acts prohibited by this section, to avoid the mandatory  
42 penalties established by this section or by the ordinance or resolution.

43 (m) The alternatives set out in subsections (a)(1), (a)(2) and (a)(3)

1 may be pleaded in the alternative, and the state, city or county may, but  
2 shall not be required to, elect one or two of the three prior to submission of  
3 the case to the fact finder.

4 (n) For the purpose of determining whether a conviction is a first,  
5 second, third or subsequent conviction in sentencing under this section:

6 (1) Convictions for a violation of K.S.A. 8-1567, and amendments  
7 thereto, or a violation of an ordinance of any city or resolution of any  
8 county which prohibits the acts that such section prohibits, or entering into  
9 a diversion agreement in lieu of further criminal proceedings on a  
10 complaint alleging any such violations, shall be taken into account, but  
11 only convictions or diversions occurring on or after July 1, 2001. Nothing  
12 in this provision shall be construed as preventing any court from  
13 considering any convictions or diversions occurring during the person's  
14 lifetime in determining the sentence to be imposed within the limits  
15 provided for a first, second, third, fourth or subsequent offense;

16 (2) any convictions for a violation of the following sections occurring  
17 during a person's lifetime shall be taken into account: (A) This section; (B)  
18 refusing to submit to a test to determine the presence of alcohol or drugs,  
19 K.S.A. 2014 Supp. 8-1025, and amendments thereto; (C) operating a  
20 vessel under the influence of alcohol or drugs, K.S.A. 32-1131, and  
21 amendments thereto; (D) involuntary manslaughter while driving under  
22 the influence of alcohol or drugs, K.S.A. 21-3442, prior to its repeal, or  
23 ~~subsection (a)(3) of K.S.A. 2014 Supp. 21-5405(a)(3), and amendments~~  
24 ~~thereto; (E) aggravated battery as described in subsection (b)(3) of K.S.A.~~  
25 ~~2014 Supp. 21-5413(b)(3), and amendments thereto; and (F) aggravated~~  
26 ~~vehicular homicide, K.S.A. 21-3405a, prior to its repeal, or vehicular~~  
27 ~~battery, K.S.A. 21-3405b, prior to its repeal, if the crime was committed~~  
28 ~~while committing a violation of K.S.A. 8-1567, and amendments thereto;~~

29 (3) "conviction" includes: (A) Entering into a diversion agreement in  
30 lieu of further criminal proceedings on a complaint alleging a violation of  
31 a crime described in subsection (n)(2); (B) conviction of a violation of an  
32 ordinance of a city in this state, a resolution of a county in this state or any  
33 law of another state which would constitute a crime described in  
34 subsection (n)(1) or (n)(2); and (C) receiving punishment under the  
35 uniform code of military justice or Kansas code of military justice for an  
36 act which was committed on a military reservation and which would  
37 constitute a crime described in subsection (n)(1) or (n)(2) if committed off  
38 a military reservation in this state;

39 (4) it is irrelevant whether an offense occurred before or after  
40 conviction for a previous offense; and

41 (5) multiple convictions of any crime described in subsection (n)(1)  
42 or (n)(2) arising from the same arrest shall only be counted as one  
43 conviction.

1 (o) For the purpose of this section:

2 (1) "Alcohol concentration" means the number of grams of alcohol  
3 per 100 milliliters of blood or per 210 liters of breath;

4 (2) "imprisonment" shall include any restrained environment in which  
5 the court and law enforcement agency intend to retain custody and control  
6 of a defendant and such environment has been approved by the board of  
7 county commissioners or the governing body of a city; and

8 (3) "drug" includes toxic vapors as such term is defined in K.S.A.  
9 2014 Supp. 21-5712, and amendments thereto.

10 (p) On and after July 1, 2011, the amount of \$250 from each fine  
11 imposed pursuant to this section shall be remitted by the clerk of the  
12 district court to the state treasurer in accordance with the provisions of  
13 K.S.A. 75-4215, and amendments thereto. Upon receipt of each such  
14 remittance, the state treasurer shall credit the entire amount to the  
15 community corrections supervision fund established by K.S.A. 2014 Supp.  
16 75-52,113, and amendments thereto.

17 Sec. 2. K.S.A. 2014 Supp. 8-1025 is hereby amended to read as  
18 follows: 8-1025. (a) Refusing to submit to a test to determine the presence  
19 of alcohol or drugs is refusing to submit to or complete a test or tests  
20 deemed consented to under ~~subsection (a)~~ of K.S.A. 8-1001(a), and  
21 amendments thereto, if such person has:

22 (1) Any prior test refusal as defined in K.S.A. 8-1013, and  
23 amendments thereto, which occurred: (A) On or after July 1, 2001; and (B)  
24 when such person was 18 years of age or older; or

25 (2) any prior conviction for a violation of K.S.A. 8-1567 or 8-2,144,  
26 and amendments thereto, or a violation of an ordinance of any city or  
27 resolution of any county which prohibits the acts that such section  
28 prohibits, or entering into a diversion agreement in lieu of further criminal  
29 proceedings on a complaint alleging any such violations, which occurred:  
30 (A) On or after July 1, 2001; and (B) when such person was 18 years of  
31 age or older.

32 (b) (1) Refusing to submit to a test to determine the presence of  
33 alcohol or drugs is:

34 (A) On a first conviction a class A, nonperson misdemeanor. The  
35 person convicted shall be sentenced to not less than 90 days nor more than  
36 one year's imprisonment and fined not less than \$1,250 nor more than  
37 \$1,750. The person convicted shall serve at least five consecutive days'  
38 imprisonment before the person is granted probation, suspension or  
39 reduction of sentence or parole or is otherwise released. The five days'  
40 imprisonment mandated by this subsection may be served in a work  
41 release program only after such person has served 48 consecutive hours'  
42 imprisonment, provided such work release program requires such person  
43 to return to confinement at the end of each day in the work release

1 program. The person convicted, if placed into a work release program,  
2 shall serve a minimum of 120 hours of confinement. Such 120 hours of  
3 confinement shall be a period of at least 48 consecutive hours of  
4 imprisonment followed by confinement hours at the end of and continuing  
5 to the beginning of the offender's work day. The court may place the  
6 person convicted under a house arrest program pursuant to K.S.A. 2014  
7 Supp. 21-6609, and amendments thereto, to serve the five days'  
8 imprisonment mandated by this subsection only after such person has  
9 served 48 consecutive hours' imprisonment. The person convicted, if  
10 placed under house arrest, shall be monitored by an electronic monitoring  
11 device, which verifies the offender's location. The offender shall serve a  
12 minimum of 120 hours of confinement within the boundaries of the  
13 offender's residence. Any exceptions to remaining within the boundaries of  
14 the offender's residence provided for in the house arrest agreement shall  
15 not be counted as part of the 120 hours;

16 (B) on a second conviction a class A, nonperson misdemeanor, except  
17 as provided in subsection (b)(1)(C). The person convicted shall be  
18 sentenced to not less than 90 days nor more than one year's imprisonment  
19 and fined not less than \$1,750 nor more than \$2,500. The person convicted  
20 shall not be eligible for release on probation, suspension or reduction of  
21 sentence or parole until the person has served at least 90 days'  
22 imprisonment. The 90 days' imprisonment mandated by this subsection  
23 may be served in a work release program only after such person has served  
24 48 consecutive hours' imprisonment, provided such work release program  
25 requires such person to return to confinement at the end of each day in the  
26 work release program. The person convicted, if placed into a work release  
27 program, shall serve a minimum of 2,160 hours of confinement. Such  
28 2,160 hours of confinement shall be a period of at least 48 consecutive  
29 hours of imprisonment followed by confinement hours at the end of and  
30 continuing to the beginning of the offender's work day. The court may  
31 place the person convicted under a house arrest program pursuant to  
32 K.S.A. 2014 Supp. 21-6609, and amendments thereto, to serve the 90 days'  
33 imprisonment mandated by this subsection only after such person has  
34 served 48 consecutive hours' imprisonment. The person convicted, if  
35 placed under house arrest, shall be monitored by an electronic monitoring  
36 device, which verifies the offender's location. The offender shall serve a  
37 minimum of 2,160 hours of confinement within the boundaries of the  
38 offender's residence. Any exceptions to remaining within the boundaries of  
39 the offender's residence provided for in the house arrest agreement shall  
40 not be counted as part of the 2,160 hours;

41 (C) on a second conviction a nonperson felony if the person has a  
42 prior conviction which occurred within the preceding 10 years, not  
43 including any period of incarceration. The person convicted shall be



1 sentenced to not less than 90 days nor more than one year's imprisonment  
2 and fined not less than \$1,750 nor more than \$2,500. The person convicted  
3 shall not be eligible for release on probation, suspension or reduction of  
4 sentence or parole until the person has served at least 90 days'  
5 imprisonment. The 90 days' imprisonment mandated by this subsection  
6 may be served in a work release program only after such person has served  
7 48 consecutive hours' imprisonment, provided such work release program  
8 requires such person to return to confinement at the end of each day in the  
9 work release program. The person convicted, if placed into a work release  
10 program, shall serve a minimum of 2,160 hours of confinement. Such  
11 2,160 hours of confinement shall be a period of at least 48 consecutive  
12 hours of imprisonment followed by confinement hours at the end of and  
13 continuing to the beginning of the offender's work day. The court may  
14 place the person convicted under a house arrest program pursuant to  
15 K.S.A. 2014 Supp. 21-6609, and amendments thereto, to serve the 90 days'  
16 imprisonment mandated by this subsection only after such person has  
17 served 48 consecutive hours' imprisonment. The person convicted, if  
18 placed under house arrest, shall be monitored by an electronic monitoring  
19 device, which verifies the offender's location. The offender shall serve a  
20 minimum of 2,160 hours of confinement within the boundaries of the  
21 offender's residence. Any exceptions to remaining within the boundaries of  
22 the offender's residence provided for in the house arrest agreement shall  
23 not be counted as part of the 2,160 hours; and

24 (D) on a third or subsequent conviction a nonperson felony. The  
25 person convicted shall be sentenced to not less than 90 days nor more than  
26 one year's imprisonment and fined \$2,500. The person convicted shall not  
27 be eligible for release on probation, suspension or reduction of sentence or  
28 parole until the person has served at least 90 days' imprisonment. The 90  
29 days' imprisonment mandated by this subsection may be served in a work  
30 release program only after such person has served 72 consecutive hours'  
31 imprisonment, provided such work release program requires such person  
32 to return to confinement at the end of each day in the work release  
33 program. The person convicted, if placed into a work release program,  
34 shall serve a minimum of 2,160 hours of confinement. Such 2,160 hours of  
35 confinement shall be a period of at least 72 consecutive hours of  
36 imprisonment followed by confinement hours at the end of and continuing  
37 to the beginning of the offender's work day. The court may place the  
38 person convicted under a house arrest program pursuant to K.S.A. 2014  
39 Supp. 21-6609, and amendments thereto, to serve the 90 days'  
40 imprisonment mandated by this subsection only after such person has  
41 served 72 consecutive hours' imprisonment. The person convicted, if  
42 placed under house arrest, shall be monitored by an electronic monitoring  
43 device, which verifies the offender's location. The offender shall serve a

1 minimum of 2,160 hours of confinement within the boundaries of the  
2 offender's residence. Any exceptions to remaining within the boundaries of  
3 the offender's residence provided for in the house arrest agreement shall  
4 not be counted as part of the 2,160 hours.

5 (2) The court may order that the term of imprisonment imposed  
6 pursuant to subsection (b)(1)(C) or (b)(1)(D) be served in a state facility in  
7 the custody of the secretary of corrections in a facility designated by the  
8 secretary for the provision of substance abuse treatment pursuant to the  
9 provisions of K.S.A. 2014 Supp. 21-6804, and amendments thereto. The  
10 person shall remain imprisoned at the state facility only while participating  
11 in the substance abuse treatment program designated by the secretary and  
12 shall be returned to the custody of the sheriff for execution of the balance  
13 of the term of imprisonment upon completion of or the person's discharge  
14 from the substance abuse treatment program. Custody of the person shall  
15 be returned to the sheriff for execution of the sentence imposed in the  
16 event the secretary of corrections determines: (A) That substance abuse  
17 treatment resources or the capacity of the facility designated by the  
18 secretary for the incarceration and treatment of the person is not available;  
19 (B) the person fails to meaningfully participate in the treatment program of  
20 the designated facility; (C) the person is disruptive to the security or  
21 operation of the designated facility; or (D) the medical or mental health  
22 condition of the person renders the person unsuitable for confinement at  
23 the designated facility. The determination by the secretary that the person  
24 either is not to be admitted into the designated facility or is to be  
25 transferred from the designated facility is not subject to review. The sheriff  
26 shall be responsible for all transportation expenses to and from the state  
27 correctional facility.

28 (3) In addition, for any conviction pursuant to subsection (b)(1)(B),  
29 (b)(1)(C) or (b)(1)(D), at the time of the filing of the judgment form or  
30 journal entry as required by K.S.A. 22-3426 or K.S.A. 2014 Supp. 21-  
31 6711, and amendments thereto, the court shall cause a certified copy to be  
32 sent to the officer having the offender in charge. The court shall determine  
33 whether the offender, upon release from imprisonment, shall be supervised  
34 by community correctional services or court services based upon the risk  
35 and needs of the offender. The risk and needs of the offender shall be  
36 determined by use of a risk assessment tool specified by the Kansas  
37 sentencing commission. The law enforcement agency maintaining custody  
38 and control of a defendant for imprisonment shall cause a certified copy of  
39 the judgment form or journal entry to be sent to the supervision office  
40 designated by the court and upon expiration of the term of imprisonment  
41 shall deliver the defendant to a location designated by the supervision  
42 office designated by the court. After the term of imprisonment imposed by  
43 the court, the person shall be placed on supervision to community

1 correctional services or court services, as determined by the court, for a  
2 mandatory one-year period of supervision, which such period of  
3 supervision shall not be reduced. During such supervision, the person shall  
4 be required to participate in a multidisciplinary model of services for  
5 substance use disorders facilitated by a ~~Kansas department of social and~~  
6 ~~rehabilitation~~ *for aging and disability* services designated care  
7 coordination agency to include assessment and, if appropriate, referral to a  
8 community based substance use disorder treatment including recovery  
9 management and mental health counseling as needed. The  
10 multidisciplinary team shall include the designated care coordination  
11 agency, the supervision officer, the ~~social and rehabilitation~~ *aging and*  
12 *disability* services department designated treatment provider and the  
13 offender. Any violation of the conditions of such supervision may subject  
14 such person to revocation of supervision and imprisonment in jail for the  
15 remainder of the period of imprisonment, the remainder of the supervision  
16 period, or any combination or portion thereof.

17 (4) In addition, prior to sentencing for any conviction pursuant to  
18 subsection (b)(1)(A), the court shall order the person to participate in an  
19 alcohol and drug evaluation conducted by a provider in accordance with  
20 K.S.A. 8-1008, and amendments thereto. The person shall be required to  
21 follow any recommendation made by the provider after such evaluation,  
22 unless otherwise ordered by the court.

23 (c) Any person convicted of violating this section or an ordinance  
24 which prohibits the acts that this section prohibits who had one or more  
25 children under the age of 14 years in the vehicle at the time of the offense  
26 shall have such person's punishment enhanced by one month of  
27 imprisonment. This imprisonment must be served consecutively to any  
28 other minimum mandatory penalty imposed for a violation of this section  
29 or an ordinance which prohibits the acts that this section prohibits. Any  
30 enhanced penalty imposed shall not exceed the maximum sentence  
31 allowable by law. During the service of the enhanced penalty, the judge  
32 may order the person on house arrest, work release or other conditional  
33 release.

34 (d) The court may establish the terms and time for payment of any  
35 fines, fees, assessments and costs imposed pursuant to this section. Any  
36 assessments and costs shall be required to be paid not later than 90 days  
37 after imposed, and any remainder of the fine shall be paid prior to the final  
38 release of the defendant by the court.

39 (e) In lieu of payment of a fine imposed pursuant to this section, the  
40 court may order that the person perform community service specified by  
41 the court. The person shall receive a credit on the fine imposed in an  
42 amount equal to \$5 for each full hour spent by the person in the specified  
43 community service. The community service ordered by the court shall be

1 required to be performed not later than one year after the fine is imposed  
2 or by an earlier date specified by the court. If by the required date the  
3 person performs an insufficient amount of community service to reduce to  
4 zero the portion of the fine required to be paid by the person, the  
5 remaining balance of the fine shall become due on that date.

6 (f) Prior to filing a complaint alleging a violation of this section, a  
7 prosecutor shall request and shall receive from the:

8 (1) Division a record of all prior convictions obtained against such  
9 person for any violations of any of the motor vehicle laws of this state; and

10 (2) Kansas bureau of investigation central repository all criminal  
11 history record information concerning such person.

12 (g) The court shall electronically report every conviction of a  
13 violation of this section and every diversion agreement entered into in lieu  
14 of further criminal proceedings on a complaint alleging a violation of this  
15 section to the division. Prior to sentencing under the provisions of this  
16 section, the court shall request and shall receive from the division a record  
17 of all prior convictions obtained against such person for any violations of  
18 any of the motor vehicle laws of this state.

19 (h) For the purpose of determining whether a conviction is a first,  
20 second, third, fourth or subsequent conviction in sentencing under this  
21 section:

22 (1) Convictions for a violation of K.S.A. 8-1567, and amendments  
23 thereto, or a violation of an ordinance of any city or resolution of any  
24 county which prohibits the acts that such section prohibits, or entering into  
25 a diversion agreement in lieu of further criminal proceedings on a  
26 complaint alleging any such violations, shall be taken into account, but  
27 only convictions or diversions occurring: (A) On or after July 1, 2001; and  
28 (B) when such person was 18 years of age or older. Nothing in this  
29 provision shall be construed as preventing any court from considering any  
30 convictions or diversions occurring during the person's lifetime in  
31 determining the sentence to be imposed within the limits provided for a  
32 first, second, third, fourth or subsequent offense;

33 (2) any convictions for a violation of the following sections which  
34 occurred during a person's lifetime shall be taken into account, but only  
35 convictions occurring when such person was 18 years of age or older: (A)  
36 This section; (B) driving a commercial motor vehicle under the influence,  
37 K.S.A. 8-2,144, and amendments thereto; (C) operating a vessel under the  
38 influence of alcohol or drugs, K.S.A. 32-1131, and amendments thereto;  
39 (D) involuntary manslaughter while driving under the influence of alcohol  
40 or drugs, K.S.A. 21-3442, prior to its repeal, or ~~subsection (a)(3) of K.S.A.~~  
41 2014 Supp. 21-5405(a)(3), and amendments thereto; (E) aggravated  
42 battery as described in ~~subsection (b)(3) of K.S.A. 2014 Supp. 21-5413(b)~~  
43 (3), and amendments thereto; and (F) aggravated vehicular homicide,

1 K.S.A. 21-3405a, prior to its repeal, or vehicular battery, K.S.A. 21-3405b,  
2 prior to its repeal, if the crime was committed while committing a  
3 violation of K.S.A. 8-1567, and amendments thereto;

4 (3) "conviction" includes: (A) Entering into a diversion agreement in  
5 lieu of further criminal proceedings on a complaint alleging a violation of  
6 a crime described in subsection (h)(2); (B) conviction of a violation of an  
7 ordinance of a city in this state, a resolution of a county in this state or any  
8 law of another state which would constitute a crime described in  
9 subsection (h)(1) or (h)(2); and (C) receiving punishment under the  
10 uniform code of military justice or Kansas code of military justice for an  
11 act which was committed on a military reservation and which would  
12 constitute a crime described in subsection (h)(1) or (h)(2) if committed off  
13 a military reservation in this state;

14 (4) it is irrelevant whether an offense occurred before or after  
15 conviction for a previous offense;

16 (5) multiple convictions of any crime described in subsection (h)(1)  
17 or (h)(2) arising from the same arrest shall only be counted as one  
18 conviction;

19 (6) the prior conviction that is an element of the crime of refusing to  
20 submit to a test to determine the presence of alcohol or drugs shall not be  
21 used for the purpose of determining whether a conviction is a first, second,  
22 third or subsequent conviction in sentencing under this section and shall  
23 not be considered in determining the sentence to be imposed within the  
24 limits provided for a first, second, third or subsequent offense; and

25 (7) a person may enter into a diversion agreement in lieu of further  
26 criminal proceedings for a violation of this section, or an ordinance which  
27 prohibits the acts of this section, only once during the person's lifetime.

28 (i) Upon conviction of a person of a violation of this section or a  
29 violation of a city ordinance or county resolution prohibiting the acts  
30 prohibited by this section, the division, upon receiving a report of  
31 conviction, shall suspend, restrict or suspend and restrict the person's  
32 driving privileges as provided by K.S.A. 8-1014, and amendments thereto.

33 (j) (1) Nothing contained in this section shall be construed as  
34 preventing any city from enacting ordinances, or any county from adopting  
35 resolutions, declaring acts prohibited or made unlawful by this act as  
36 unlawful or prohibited in such city or county and prescribing penalties for  
37 violation thereof.

38 (2) The minimum penalty prescribed by any such ordinance or  
39 resolution shall not be less than the minimum penalty prescribed by this  
40 section for the same violation, and the maximum penalty in any such  
41 ordinance or resolution shall not exceed the maximum penalty prescribed  
42 for the same violation.

43 (3) An ordinance may grant to a municipal court jurisdiction over a

1 violation of such ordinance which is concurrent with the jurisdiction of the  
2 district court over a violation of this section, notwithstanding that the  
3 elements of such ordinance violation are the same as the elements of a  
4 violation of this section that would constitute, and be punished as, a felony.

5 (4) Any such ordinance or resolution shall authorize the court to order  
6 that the convicted person pay restitution to any victim who suffered loss  
7 due to the violation for which the person was convicted.

8 (k) (1) Upon the filing of a complaint, citation or notice to appear  
9 alleging a person has violated a city ordinance prohibiting the acts  
10 prohibited by this section, and prior to conviction thereof, a city attorney  
11 shall request and shall receive from the:

12 (A) Division a record of all prior convictions obtained against such  
13 person for any violations of any of the motor vehicle laws of this state; and

14 (B) Kansas bureau of investigation central repository all criminal  
15 history record information concerning such person.

16 (2) If the elements of such ordinance violation are the same as the  
17 elements of a violation of this section that would constitute, and be  
18 punished as, a felony, the city attorney shall refer the violation to the  
19 appropriate county or district attorney for prosecution.

20 (l) No plea bargaining agreement shall be entered into nor shall any  
21 judge approve a plea bargaining agreement entered into for the purpose of  
22 permitting a person charged with a violation of this section, or a violation  
23 of any ordinance of a city or resolution of any county in this state which  
24 prohibits the acts prohibited by this section, to avoid the mandatory  
25 penalties established by this section or by the ordinance. For the purpose  
26 of this subsection, entering into a diversion agreement pursuant to K.S.A.  
27 12-4413 et seq. or 22-2906 et seq., and amendments thereto, shall not  
28 constitute plea bargaining.

29 (m) As used in this section, "imprisonment" shall include any  
30 restrained environment in which the court and law enforcement agency  
31 intend to retain custody and control of a defendant and such environment  
32 has been approved by the board of county commissioners or the governing  
33 body of a city.

34 (n) On and after July 1, 2012, the amount of \$250 from each fine  
35 imposed pursuant to this section shall be remitted by the clerk of the  
36 district court to the state treasurer in accordance with the provisions of  
37 K.S.A. 75-4215, and amendments thereto. Upon receipt of each such  
38 remittance, the state treasurer shall credit the entire amount to the  
39 community corrections supervision fund established by K.S.A. 2014 Supp.  
40 75-52,113, and amendments thereto.

41 Sec. 3. K.S.A. 2014 Supp. 21-5909 is hereby amended to read as  
42 follows: 21-5909. (a) Intimidation of a witness or victim is preventing or  
43 dissuading, or attempting to prevent or dissuade, with an intent to vex,

1 annoy, harm or injure in any way another person or an intent to thwart or  
2 interfere in any manner with the orderly administration of justice:

3 (1) Any witness or victim from attending or giving testimony at any  
4 civil or criminal trial, proceeding or inquiry authorized by law; or

5 (2) any witness, victim or person acting on behalf of a victim from:

6 (A) Making any report of the victimization of a victim to any law  
7 enforcement officer, prosecutor, probation officer, parole officer,  
8 correctional officer, community correctional services officer or judicial  
9 officer, the secretary ~~of the department of social and rehabilitation for~~  
10 *children and families, the secretary for aging and disability* services or any  
11 agent or representative of the secretary, or any person required to make a  
12 report pursuant to K.S.A. 2014 Supp. 38-2223, and amendments thereto;

13 (B) causing a complaint, indictment or information to be sought and  
14 prosecuted, or causing a violation of probation, parole or assignment to a  
15 community correctional services program to be reported and prosecuted,  
16 and assisting in its prosecution;

17 (C) causing a civil action to be filed and prosecuted and assisting in  
18 its prosecution; or

19 (D) arresting or causing or seeking the arrest of any person in  
20 connection with the victimization of a victim.

21 (b) Aggravated intimidation of a witness or victim is intimidation of a  
22 witness or victim, as defined in subsection (a), when the:

23 (1) Act is accompanied by an expressed or implied threat of force or  
24 violence against a witness, victim or other person or the property of any  
25 witness, victim or other person;

26 (2) act is in furtherance of a conspiracy;

27 (3) act is committed by a person who has been previously convicted  
28 of corruptly influencing a witness or has been convicted of a violation of  
29 this section or any federal or other state's statute which, if the act  
30 prosecuted was committed in this state, would be a violation of this  
31 section;

32 (4) witness or victim is under 18 years of age; or

33 (5) act is committed for pecuniary gain or for any other consideration  
34 by a person acting upon the request of another person.

35 (c) (1) Intimidation of a witness or victim is a class B person  
36 misdemeanor.

37 (2) Aggravated intimidation of a witness or victim is a severity level  
38 6, person felony.

39 Sec. 4. K.S.A. 2014 Supp. 36-502 is hereby amended to read as  
40 follows: 36-502. (a) It shall be unlawful for any person to engage in the  
41 business of conducting a lodging establishment unless such person shall  
42 have in effect a valid license therefor issued by the secretary. Applications  
43 for such licenses shall be made on forms prescribed by the secretary, and

1 each such application shall be accompanied by the appropriate license fee  
2 required by subsection (c). Prior to the issuance of any such license, the  
3 secretary shall inspect or cause to be inspected the lodging establishment  
4 designated in the application, to determine that it complies with the  
5 standards for lodging establishments promulgated pursuant to this act. If  
6 such lodging establishment is found to be in compliance, and the  
7 completed application and accompanying fees have been submitted, the  
8 secretary shall issue the license. If such lodging establishment is found not  
9 to be in compliance, the secretary shall deny such application after  
10 providing notice and opportunity for a hearing in accordance with the  
11 provisions of the Kansas administrative procedure act.

12 (b) Each license shall designate whether the licensed lodging unit is a  
13 hotel, rooming house or boarding house. Any person obtaining a license to  
14 engage in the business of conducting a rooming house or boarding house  
15 shall not have the right to use the name "hotel" in connection with such  
16 business. Every license issued hereunder shall be displayed conspicuously  
17 in the lodging establishment for which it is issued, and no such license  
18 shall be transferable to any other person or location. Whenever any such  
19 license is lost, destroyed or mutilated, a duplicate license shall be issued to  
20 any otherwise qualified licensee upon application therefor and the payment  
21 of a fee in the amount of \$5.

22 (c) The fee for a license to conduct a lodging establishment in this  
23 state for all or any part of any calendar year shall be \$30, except that the  
24 fee for any lodging establishment containing 10 sleeping rooms shall be  
25 \$40 and for every additional 10 rooms therein, an additional fee of \$10  
26 shall be charged. All lodging establishments which are newly constructed,  
27 newly converted to use as a lodging establishment or have a change of  
28 ownership shall pay an application fee which may be adjusted in  
29 accordance with the type of establishment or based on other criteria as  
30 determined by the secretary, but in no event shall any application fee  
31 exceed \$200 in addition to the license fee.

32 (d) Any lodging establishment that also has a food establishment  
33 license shall have a fee set by rule and regulation of the secretary. Such fee  
34 shall not exceed the fees for lodging establishments as provided in  
35 subsection (c).

36 (e) A guest house shall not be required to have a lodging license, but  
37 such guest house shall be required to be inspected if the secretary receives  
38 a complaint concerning such guest house and shall be subject to the  
39 temporary closure provisions of ~~subsection (b) of K.S.A. 36-515a(b)~~, and  
40 amendments thereto.

41 (f) A lodging establishment operated in connection with any premises  
42 licensed, registered or permitted by the secretary of health and  
43 environment, the secretary ~~of social and rehabilitation services for~~



1 *children and families*, the secretary of corrections or the secretary of aging  
2 *for aging and disability services*, which is inspected and regulated  
3 pursuant to the respective law or rule and regulation of such secretary,  
4 shall not require a license as provided in this section, and the secretary of  
5 agriculture shall not be authorized to inspect or cause such premises to be  
6 inspected. This subsection shall not apply to a lodging establishment  
7 whose primary function is not in connection with any premises licensed,  
8 registered or permitted pursuant to the respective law or rule and  
9 regulation of such secretary.

10 Sec. 5. K.S.A. 2014 Supp. 38-2006 is hereby amended to read as  
11 follows: 38-2006. The secretary of ~~social and rehabilitation services for~~  
12 *children and families* shall advise and consult with the secretary of health  
13 and environment on issues relating to children's health status.

14 Sec. 6. K.S.A. 2014 Supp. 38-2212 is hereby amended to read as  
15 follows: 38-2212. (a) *Principle of appropriate access*. Information  
16 contained in confidential agency records concerning a child alleged or  
17 adjudicated to be in need of care may be disclosed as provided in this  
18 section. Disclosure shall in all cases be guided by the principle of  
19 providing access only to persons or entities with a need for information  
20 that is directly related to achieving the purposes of this code.

21 (b) *Free exchange of information*. Pursuant to K.S.A. 2014 Supp. 38-  
22 2210, and amendments thereto, the secretary and juvenile intake and  
23 assessment agencies shall participate in the free exchange of information  
24 concerning a child who is alleged or adjudicated to be in need of care.

25 (c) *Necessary access*. The following persons or entities shall have  
26 access to information from agency records. Access shall be limited to  
27 information reasonably necessary to carry out their lawful responsibilities,  
28 to maintain their personal safety and the personal safety of individuals in  
29 their care, or to educate, diagnose, treat, care for or protect a child alleged  
30 to be in need of care. Information authorized to be disclosed pursuant to  
31 this subsection shall not contain information which identifies a reporter of  
32 a child who is alleged or adjudicated to be a child in need of care.

33 (1) A child named in the report or records, a guardian ad litem  
34 appointed for the child and the child's attorney.

35 (2) A parent or other person responsible for the welfare of a child, or  
36 such person's legal representative.

37 (3) A court-appointed special advocate for a child, a citizen review  
38 board or other advocate which reports to the court.

39 (4) A person licensed to practice the healing arts or mental health  
40 profession in order to diagnose, care for, treat or supervise: (A) A child  
41 whom such service provider reasonably suspects may be in need of care;  
42 (B) a member of the child's family; or (C) a person who allegedly abused  
43 or neglected the child.

1 (5) A person or entity licensed or registered by the secretary of health  
2 and environment or approved by the secretary ~~of social and rehabilitation~~  
3 ~~services for children and families~~ to care for, treat or supervise a child in  
4 need of care.

5 (6) A coroner or medical examiner when such person is determining  
6 the cause of death of a child.

7 (7) The state child death review board established under K.S.A. 22a-  
8 243, and amendments thereto.

9 (8) An attorney for a private party who files a petition pursuant to  
10 ~~subsection (b) of K.S.A. 2014 Supp. 38-2233(b)~~, and amendments thereto.

11 (9) A foster parent, prospective foster parent, permanent custodian,  
12 prospective permanent custodian, adoptive parent or prospective adoptive  
13 parent. In order to assist such persons in making an informed decision  
14 regarding acceptance of a particular child, to help the family anticipate  
15 problems which may occur during the child's placement, and to help the  
16 family meet the needs of the child in a constructive manner, the secretary  
17 shall seek and shall provide the following information to such person's as  
18 the information becomes available to the secretary:

19 (A) Strengths, needs and general behavior of the child;

20 (B) circumstances which necessitated placement;

21 (C) information about the child's family and the child's relationship to  
22 the family which may affect the placement;

23 (D) important life experiences and relationships which may affect the  
24 child's feelings, behavior, attitudes or adjustment;

25 (E) medical history of the child, including third-party coverage which  
26 may be available to the child; and

27 (F) education history, to include present grade placement, special  
28 strengths and weaknesses.

29 (10) The state protection and advocacy agency as provided by  
30 ~~subsection (a)(10) of K.S.A. 65-5603(a)(10) or subsection (a)(2)(A) and~~  
31 ~~(B) of K.S.A. 74-5515(a)(2)(A) and (B)~~, and amendments thereto.

32 (11) Any educational institution to the extent necessary to enable the  
33 educational institution to provide the safest possible environment for its  
34 pupils and employees.

35 (12) Any educator to the extent necessary to enable the educator to  
36 protect the personal safety of the educator and the educator's pupils.

37 (13) Any other federal, state or local government executive branch  
38 entity or any agent of such entity, having a need for such information in  
39 order to carry out such entity's responsibilities under the law to protect  
40 children from abuse and neglect.

41 (d) *Specified access*. The following persons or entities shall have  
42 access to information contained in agency records as specified.  
43 Information authorized to be disclosed pursuant to this subsection shall not

1 contain information which identifies a reporter of a child who is alleged or  
2 adjudicated to be a child in need of care.

3 (1) Information from confidential agency records of the *Kansas*  
4 ~~department of social and rehabilitation services for children and families~~, a  
5 law enforcement agency or any juvenile intake and assessment worker of a  
6 child alleged or adjudicated to be in need of care shall be available to  
7 members of the standing house or senate committee on judiciary, house  
8 committee on corrections and juvenile justice, house committee on  
9 appropriations, senate committee on ways and means, legislative post audit  
10 committee and any joint committee with authority to consider children's  
11 and families' issues, when carrying out such member's or committee's  
12 official functions in accordance with K.S.A. 75-4319, and amendments  
13 thereto, in a closed or executive meeting. Except in limited conditions  
14 established by  $\frac{2}{3}$  of the members of such committee, records and reports  
15 received by the committee shall not be further disclosed. Unauthorized  
16 disclosure may subject such member to discipline or censure from the  
17 house of representatives or senate. The secretary ~~of social and~~  
18 ~~rehabilitation services for children and families~~ shall not summarize the  
19 outcome of department actions regarding a child alleged to be a child in  
20 need of care in information available to members of such committees.

21 (2) The secretary ~~of social and rehabilitation services for children and~~  
22 ~~families~~ may summarize the outcome of department actions regarding a  
23 child alleged to be a child in need of care to a person having made such  
24 report.

25 (3) Information from confidential reports or records of a child alleged  
26 or adjudicated to be a child in need of care may be disclosed to the public  
27 when:

28 (A) The individuals involved or their representatives have given  
29 express written consent; or

30 (B) the investigation of the abuse or neglect of the child or the filing  
31 of a petition alleging a child to be in need of care has become public  
32 knowledge, provided, however, that the agency shall limit disclosure to  
33 confirmation of procedural details relating to the handling of the case by  
34 professionals.

35 (e) *Court order*: Notwithstanding the provisions of this section, a  
36 court of competent jurisdiction, after in camera inspection, may order  
37 disclosure of confidential agency records pursuant to a determination that  
38 the disclosure is in the best interests of the child who is the subject of the  
39 reports or that the records are necessary for the proceedings of the court  
40 and otherwise admissible as evidence. The court shall specify the terms of  
41 disclosure and impose appropriate limitations.

42 (f) (1) Notwithstanding any other provision of law to the contrary,  
43 except as provided in paragraph (4), in the event that child abuse or

1 neglect results in a child fatality or near fatality, reports or records of a  
2 child alleged or adjudicated to be in need of care received by the secretary,  
3 a law enforcement agency or any juvenile intake and assessment worker  
4 shall become a public record and subject to disclosure pursuant to K.S.A.  
5 45-215, and amendments thereto.

6 (2) Within seven days of receipt of a request in accordance with the  
7 procedures adopted under K.S.A. 45-220, and amendments thereto, the  
8 secretary shall notify any affected individual that an open records request  
9 has been made concerning such records. The secretary or any affected  
10 individual may file a motion requesting the court to prevent disclosure of  
11 such record or report, or any select portion thereof. If the affected  
12 individual does not file such motion within seven days of notification, and  
13 the secretary has not filed a motion, the secretary shall release the reports  
14 or records. If such motion is filed, the court shall consider the effect such  
15 disclosure may have upon an ongoing criminal investigation, a pending  
16 prosecution, or the privacy of the child, if living, or the child's siblings,  
17 parents or guardians. The court shall make written findings on the record  
18 justifying the closing of the records and shall provide a copy of the journal  
19 entry to the affected parties and the individual requesting disclosure  
20 pursuant to the Kansas open records act, K.S.A. 45-215 et seq., and  
21 amendments thereto.

22 (3) For reports or records requested pursuant to this subsection, the  
23 time limitations specified in this subsection shall control to the extent of  
24 any inconsistency between this subsection and K.S.A. 45-218, and  
25 amendments thereto. As used in this section, "near fatality" means an act  
26 that, as certified by a person licensed to practice medicine and surgery,  
27 places the child in serious or critical condition.

28 (4) Nothing in this subsection shall allow the disclosure of reports,  
29 records or documents concerning the child and such child's biological  
30 parents which were created prior to such child's adoption. Nothing herein  
31 is intended to require that an otherwise privileged communication lose its  
32 privileged character.

33 Sec. 7. K.S.A. 2014 Supp. 39-1702 is hereby amended to read as  
34 follows: 39-1702. As used in this act:

35 (a) "Children and adolescents who require multiple levels and kinds  
36 of specialized services which are beyond the capability of one agency"  
37 means children and adolescents who are residents of Kansas, and with  
38 respect to whom there is documentation that: (1) Various agencies have  
39 acknowledged the need for a certain type of service and have taken action  
40 to provide that level of care; (2) various agencies have collaborated to  
41 develop a program plan to meet the needs of the child or adolescent; and  
42 (3) various agencies have collaborated to develop programs and funding to  
43 meet the need of the child or adolescent, and that existing or alternative

1 programs and funding have been exhausted or are insufficient or  
2 inappropriate in view of the distinctive nature of the situation of the child  
3 or adolescent.

4 (b) "Agency" means and includes county health departments, area  
5 offices of the ~~Kansas department of social and rehabilitation services for~~  
6 ~~children and families~~, district offices of the department of health and  
7 environment, local offices of the department of labor, boards of education  
8 of public school districts, community mental health centers, community  
9 facilities for people with intellectual or developmental disabilities, or both,  
10 district courts, county commissions, and law enforcement agencies.

11 (c) "Authorized decision makers" means agency representatives who  
12 have the authority to commit the resources of the agency they represent in  
13 the provision of services to any child or adolescent whose needs are  
14 brought before a regional interagency council.

15 (d) "District court" means the chief judge for a judicial district.

16 (e) "Parent" means a natural parent, an adoptive parent, a stepparent,  
17 a foster care provider of a child or adolescent for whom services are  
18 needed from more than one agency, or a person acting as parent of a child  
19 or adolescent for whom services are needed from more than one agency.

20 (f) "Person acting as parent" means a guardian or conservator, or a  
21 person, other than a parent, who is liable by law to maintain, care for, or  
22 support a child or adolescent, or who has actual care and custody of the  
23 child or adolescent and is contributing the major portion of the cost of  
24 support of the child or adolescent, or who has actual care and control of  
25 the child or adolescent with the written consent of a person who has legal  
26 custody of the child or adolescent, or who has been granted custody of the  
27 child or adolescent, by a court of competent jurisdiction.

28 Sec. 8. K.S.A. 2014 Supp. 40-4702 is hereby amended to read as  
29 follows: 40-4702. (a) The governor of the state of Kansas shall appoint a  
30 committee which shall be known as the Kansas business health policy  
31 committee, whose purpose is to explore opportunities and encourage  
32 employer participation in health plans developed by the committee for low  
33 and modest wage employees of small employers.

34 (b) The Kansas business health policy committee, hereinafter referred  
35 to as the health committee, shall consist of:

36 (1) The secretary of the department of commerce or the secretary's  
37 designee;

38 (2) ~~the secretary of the department of social and rehabilitation~~  
39 ~~services for children and families~~ or the secretary's designee;

40 (3) the commissioner of insurance or the commissioner's designee;

41 (4) one member appointed by the president of the senate;

42 (5) one member appointed by the speaker of the house of  
43 representatives;

- 1 (6) one member appointed by the minority leader of the senate;
- 2 (7) one member appointed by the minority leader of the house of  
3 representatives; and
- 4 (8) three members at large from the private sector appointed by the  
5 governor.

6 The secretary of each state agency represented on this committee shall  
7 provide such staff and other resources as the health committee may  
8 require.

9 (c) (1) The initial meeting of the health committee shall be convened  
10 within 60 days after the effective date of this act by the governor at a time  
11 and place designated by the governor.

12 (2) Meetings of the health committee subsequent to its initial meeting  
13 shall be held and conducted in accordance with policies and procedures  
14 established by the health committee.

15 (3) Commencing at the time of the initial meeting of the health  
16 committee, the powers, authorities, duties and responsibilities conferred  
17 and imposed upon the health committee by this act shall be operative and  
18 effective.

19 (d) The health committee shall develop and approve a request for  
20 proposals for a qualified entity to serve as the Kansas business health  
21 partnership, hereinafter referred to as health partnership, which shall  
22 provide a mechanism to combine federal and state subsidies with  
23 contributions from small employers and eligible employees to purchase  
24 health insurance in accordance with guidelines developed by the health  
25 committee.

26 (e) The health committee shall evaluate responses to the request for  
27 proposals and select the qualified entity to serve as the health partnership.

28 (f) The health committee shall:

29 (1) Develop, approve and revise subsidy eligibility criteria provided  
30 that:

31 (A) Low wage and modest wage employees of small employers shall  
32 be eligible for subsidies if:

33 (i) The small employer has not previously offered health insurance  
34 coverage within the two years next preceding the date upon which health  
35 insurance is offered; or

36 (ii) the small employer has previously offered health insurance  
37 coverage and a majority of such small employer's employees are low wage  
38 or modest wage employees as defined in K.S.A. 40-4701, and amendments  
39 thereto;

40 (B) any small employer's eligible employee with a child who is  
41 eligible for coverage under the state children's health insurance program  
42 established by K.S.A. 38-2001 et seq., and amendments thereto, or in the  
43 state medical assistance program shall be eligible automatically for a

1 subsidy and shall be included in the determination of eligibility for the  
2 small employer and its low and modest wage employees; and

3 (C) at least 70% of the small employer's eligible employees without  
4 group health insurance coverage from another source are insured through  
5 the partnership; and

6 (2) determine and arrange for eligibility determination for subsidies  
7 of low wage or modest wage employees; and

8 (3) develop subsidy schedules based upon eligible employee wage  
9 levels and family income; and

10 (4) be responsible for arranging for the provision of affordable health  
11 care coverage for eligible employees of small employers and evaluating  
12 and creating the opportunity to improve health care provided by plans in  
13 the small group health insurance program.

14 (g) The health committee shall oversee and monitor the ongoing  
15 operation of any subsidy program and the financial accountability of all  
16 subsidy funds. If, in the judgment of the health committee, the entity  
17 selected to serve as the health partnership fails to perform as intended, the  
18 health committee may terminate its selection and designation of that entity  
19 as the health partnership and may issue a new request for proposal and  
20 select a different qualified entity to serve as the health partnership.

21 (h) The health committee is hereby authorized to accept funds from  
22 the federal government, or its agencies, or any other source whatsoever for  
23 research studies, investigation, planning and other purposes related to  
24 implementation of the objectives of this act. Any funds so received shall be  
25 deposited in the state treasury and shall be credited to a special revenue  
26 fund which is hereby created and shall be known as the health committee  
27 insurance fund and used in accordance with or direction of the contributing  
28 federal agencies. Expenditures from such fund may be made for any  
29 purpose in keeping with the responsibilities, functions and authority of the  
30 department. Warrants on such fund shall be drawn in the same manner as  
31 required of other state agencies upon vouchers approved by the secretary  
32 of health and environment, or the secretary's designee, upon receiving  
33 prior approval of the health committee.

34 (i) The health committee is authorized to develop policies for the  
35 administration of the subsidy program and for the use of additional federal  
36 or private funds to subsidize health insurance coverage for low and modest  
37 wage employees of predominantly low-wage small employers. The health  
38 committee shall be responsible for setting benefit levels and establishing  
39 performance measures for health plans providing health care coverage for  
40 this program that include quality, preventative health and other  
41 supplementary measures. The health committee shall limit access to the  
42 program subsidy to the projected annualized expenditure.

43 (j) The health committee is hereby authorized to organize, or cause to

1 be organized, one or more advisory committees. No member of any  
2 advisory committee established under this subsection shall have previously  
3 received or currently receive any payment or other compensation from the  
4 health partnership. The membership of each advisory committee  
5 established under this subsection shall contain at least one representative  
6 who is a small employer and one representative who is an eligible  
7 employee as defined in K.S.A. 40-4701, and amendments thereto, and one  
8 representative of the insurance industry.

9 (k) The health committee shall report on an annual basis on the  
10 following subjects:

- 11 (1) Quality assurance measures;
- 12 (2) disease prevention activities;
- 13 (3) disease management activities; and
- 14 (4) other activities or programs the committee decides to include.

15 Sec. 9. K.S.A. 2014 Supp. 59-29a24 is hereby amended to read as  
16 follows: 59-29a24. (a) Any patient in the custody of the secretary ~~of social~~  
17 ~~and rehabilitation for aging and disability~~ services pursuant to K.S.A. 59-  
18 29a01 et seq., and amendments thereto, prior to filing any civil action  
19 naming as the defendant pursuant to the rules of civil procedure, the state  
20 of Kansas, any political subdivision of the state of Kansas, any public  
21 official, the secretary ~~of social and rehabilitation for aging and disability~~  
22 services or an employee of the ~~Kansas department of social and~~  
23 ~~rehabilitation for aging and disability~~ services, while such employee is  
24 engaged in the performance of such employee's duty, shall be required to  
25 have exhausted such patient's administrative remedies, established by  
26 procedures adopted pursuant to ~~subsection (d) of~~ K.S.A. 59-29a22(d), and  
27 amendments thereto, concerning such civil action. Upon filing a petition in  
28 a civil action, such patient shall file with such petition proof that the  
29 administrative remedies have been exhausted.

30 (b) Notwithstanding any filing fee, or any portion thereof, that may  
31 have been paid, the court shall dismiss the case at any time if the court  
32 determines that:

- 33 (1) The allegation of poverty is untrue, notwithstanding the fact that a  
34 filing fee, or any portion thereof has been paid; or
- 35 (2) the action or appeal:
  - 36 (A) Is frivolous or malicious;
  - 37 (B) fails to state a claim on which relief may be granted; or
  - 38 (C) seeks monetary relief against a defendant who is immune from  
39 such relief.

40 (c) In no event shall such patient bring a civil action or appeal a  
41 judgment in a civil action or proceeding under this section if such patient  
42 has, on three or more prior occasions, while in the custody of the secretary  
43 ~~of social and rehabilitation for aging and disability~~ services pursuant to



1 K.S.A. 59-29a01 et seq., and amendments thereto, brought an action or  
2 appeal in a court of the state of Kansas or of the United States that was  
3 dismissed on the grounds that it was frivolous, malicious or failed to state  
4 a claim upon which relief may be granted, unless the patient is under  
5 imminent danger of serious physical injury.

6 (d) The provisions of this section shall not apply to a writ of habeas  
7 corpus.

8 Sec. 10. K.S.A. 2014 Supp. 65-689 is hereby amended to read as  
9 follows: 65-689. (a) It shall be unlawful for any person to engage in the  
10 business of conducting a food establishment or food processing plant  
11 unless such person shall have in effect a valid license therefor issued by  
12 the secretary.

13 (b) Applications for such licenses shall be made on forms prescribed  
14 by the secretary, and each such application shall be accompanied by an  
15 application fee and by a license fee. Prior to the issuance of any such  
16 license, the secretary shall inspect or cause to be inspected the food  
17 establishment or food processing plant designated in the application, to  
18 determine that it complies with rules and regulations adopted pursuant to  
19 the food, drug and cosmetic act, and amendments thereto. If the food  
20 establishment or food processing plant is found to be in compliance, and  
21 the completed application and accompanying fees have been submitted,  
22 the secretary shall issue the license. If the food establishment or food  
23 processing plant is found not to be in compliance, the secretary shall deny  
24 the application for a license after providing notice and opportunity for a  
25 hearing in accordance with the provisions of the Kansas administrative  
26 procedure act.

27 (c) Every license issued hereunder shall be displayed conspicuously  
28 in the food establishment or food processing plant for which it is issued,  
29 and no such license shall be transferable to any other person or location.  
30 Whenever any such license is lost, destroyed or mutilated, a duplicate  
31 license shall be issued to any otherwise qualified licensee upon application  
32 therefor and the payment of a fee in the amount of \$5.

33 (d) A license shall not be required by:

34 (1) A plant or facility registered or licensed by the department of  
35 agriculture pursuant to article 7 of chapter 65 of the Kansas Statutes  
36 Annotated, and amendments thereto, or licensed or registered by the  
37 department of agriculture pursuant to article 6a of chapter 65 of the Kansas  
38 Statutes Annotated, and amendments thereto, shall not be required to  
39 obtain a separate license pursuant to this section if the inspections  
40 conducted under the respective acts encompass all operations of the  
41 facility.

42 (2) A registered nonprofit organization that provides food without  
43 charge solely to people who are food insecure, including, but not limited

1 to, soup kitchens and food pantries.

2 (3) A location where prepackaged individual meals are distributed to  
3 persons eligible under the federal older Americans act.

4 (4) A person who produces food for distribution directly to the end  
5 consumer, if such food does not require time and temperature control for  
6 safety or specialized processing, as determined by the secretary.

7 (5) A person who serves food exclusively on interstate conveyances  
8 or common carriers.

9 (6) A person operating a food establishment for less than seven days  
10 in any calendar year.

11 (7) A person who prepares, serves or sells food for the sole purpose of  
12 soliciting funds to be used for community or humanitarian purposes or  
13 educational or youth activities.

14 (8) A person operating a food vending machine, if the food vending  
15 machine company:

16 (A) Is licensed as a food establishment, or if located in another state,  
17 licensed according to the laws of such state;

18 (B) maintains, and makes available to the secretary, a current record  
19 of the location of each food vending machine it operates or services; and

20 (C) conspicuously displays the company name, phone number and  
21 any additional information the secretary may require on each such vending  
22 machine.

23 (9) A person providing only complimentary coffee to its patrons  
24 whose primary business is unrelated to operating a food establishment or  
25 food processing plant.

26 (10) A person operating a farm winery, as defined in K.S.A. 41-102,  
27 and amendments thereto, who does not produce or offer any food products  
28 other than wine produced at such farm winery.

29 (11) A retailer, as defined in K.S.A. 41-102, and amendments thereto,  
30 that sells only alcoholic liquors and cereal malt beverages.

31 (12) A food establishment that sells or offers for sale only packaged  
32 foods that are non-hazardous and are received directly from a licensed  
33 food production facility in packaged form, if such food establishment  
34 contains less than 200 cubic feet as measured pursuant to ~~subsection (e) of~~  
35 K.S.A. 65-688(e), and amendments thereto.

36 (13) A person who provides food samples, without charge, to  
37 promote, advertise or compliment the sale of food or associated food  
38 preparation equipment.

39 (14) A guest house, as defined in K.S.A. 36-501, and amendments  
40 thereto.

41 (e) The exemption provided to those entities provided in subsection  
42 (d) shall not be exempt from inspection or regulation when a violation is  
43 observed or reported to the secretary.

1 (f) A food establishment operated in connection with any premises  
2 licensed, registered or permitted by the secretary of health and  
3 environment, the secretary ~~of social and rehabilitation services for~~  
4 *children and families*, the secretary of corrections or the secretary ~~of aging~~  
5 *for aging and disability services*, which is inspected and regulated  
6 pursuant to the respective law or rule and regulation of such secretary,  
7 shall not require a license, and the secretary of agriculture shall not be  
8 authorized to inspect or cause such premises to be inspected. This  
9 subsection shall not apply to a food establishment whose primary function  
10 is not in connection with any premises licensed, registered or permitted  
11 pursuant to the respective law or rule and regulation of such secretary.

12 Sec. 11. K.S.A. 2014 Supp. 65-6233 is hereby amended to read as  
13 follows: 65-6233. (a) The department of health and environment, in  
14 conjunction with the *Kansas* department ~~of social and rehabilitation for~~  
15 *aging and disability* services, shall review and update its rules and  
16 regulations establishing eligibility requirements for the Kansas program of  
17 medical assistance established in accordance with title XIX of the federal  
18 social security act, 42 U.S.C. § 1396 et seq. Such review shall include the  
19 establishment of a procedure which permits the holder of a life insurance  
20 policy which has a cash surrender value to give the Kansas program of  
21 medical assistance established in accordance with title XIX of the federal  
22 social security act a collateral assignment of the proceeds of such life  
23 insurance policy. The collateral assignment may be used by the insured in  
24 lieu of any requirement that such life insurance policy be sold in order for  
25 the insured to meet any property ownership limitation contained in any  
26 eligibility requirement for participation in the Kansas program of medical  
27 assistance established in accordance with title XIX of the federal social  
28 security act. The collateral assignment shall be for an amount not to  
29 exceed the proceeds of such policy necessary to reimburse the Kansas  
30 program of medical assistance established in accordance with title XIX of  
31 the federal social security act for any amount paid by such program for  
32 medical benefits provided to the insured. The collateral assignment shall  
33 be irrevocable as established by a written agreement binding on the holder  
34 of the life insurance policy to not affect or otherwise use the cash  
35 surrender value of such policy after the irrevocable assignment pursuant to  
36 rules and regulations promulgated by the secretary of the department of  
37 health and environment.

38 (b) The department of health and environment is hereby directed to  
39 seek any necessary waivers from program requirements of the federal  
40 government as may be needed to carry out the provisions of this section  
41 and to maximize federal matching and other funds with respect to the  
42 provisions of this section. If the department of health and environment  
43 determines that one or more waivers from program requirements of the

1 federal government are needed to carry out the provisions of this section,  
2 the department of health and environment shall implement the provisions  
3 of this section only if such waivers to federal program requirements have  
4 been obtained from the federal government.

5 (c) (1) Except as provided in paragraph (2), the review and update of  
6 the rules and regulations establishing eligibility requirements for the  
7 Kansas program of medical assistance established in accordance with title  
8 XIX of the federal social security act, 42 U.S.C. § 1396 et seq., shall be  
9 completed and the revisions of such rules and regulations shall be adopted  
10 in accordance with the rules and regulations filing act no later than 12  
11 calendar months following the date of receipt of the waivers required  
12 under subsection (b).

13 (2) If the department of health and environment determines that no  
14 waivers are required to implement the provisions of subsection (a), the  
15 review and update of the rules and regulations establishing eligibility  
16 requirements for the Kansas program of medical assistance established in  
17 accordance with title XIX of the federal social security act, 42 U.S.C. §  
18 1396 et seq., shall be completed and the revisions of such rules and  
19 regulations shall be adopted in accordance with the rules and regulations  
20 filing act no later than 12 calendar months following the effective date of  
21 this act.

22 Sec. 12. K.S.A. 2014 Supp. 75-7d01 is hereby amended to read as  
23 follows: 75-7d01. (a) There is hereby created in the office of the attorney  
24 general a batterer intervention program certification unit.

25 (b) Except as otherwise provided by law, the books, documents,  
26 papers, records or other sources of information obtained and the  
27 investigations conducted by the unit shall be confidential as required by  
28 state or federal law.

29 (c) The purpose of the batterer intervention program certification unit  
30 is to certify and inspect batterer intervention programs in Kansas. To  
31 accomplish this purpose, upon request of the unit, the unit shall have  
32 access to all records of reports, investigation documents and written  
33 reports of findings related to confirmed cases of domestic violence or  
34 exploitation of persons or cases in which there is reasonable suspicion to  
35 believe domestic violence has occurred which are received or generated by  
36 the *Kansas department of social and rehabilitation services, for children*  
37 *and families, Kansas department on aging for aging and disability*  
38 *services, department of health and environment or Kansas bureau of*  
39 *investigation.*

40 (d) The attorney general shall develop a set of tools, methodologies,  
41 requirements and forms for the domestic violence offender assessment  
42 required by ~~subsection (p) of~~ K.S.A. 2014 Supp. 21-6604(p), and  
43 amendments thereto. The batterer intervention program tools,

1 methodologies, requirements and forms shall be developed in consultation  
2 with the agency certified by the centers for disease control and prevention  
3 and the department of health and human services as the domestic violence  
4 coalition for the state and with local domestic violence victims' services  
5 organizations.

6 (e) The attorney general may appoint a panel to assist the attorney  
7 general by making recommendations regarding the:

8 (1) Content and development of a batterer intervention certification  
9 program; and

10 (2) rules and regulations.

11 (f) The attorney general may appoint such advisory committees as the  
12 attorney general deems necessary to carry out the purposes of the batterer  
13 intervention program certification act. Except as provided in K.S.A. 75-  
14 3212, and amendments thereto, no member of any such advisory  
15 committee shall receive any compensation, subsistence, mileage or other  
16 allowance for serving on an advisory committee or attending any meeting  
17 thereof.

18 Sec. 13. K.S.A. 75-5308d is hereby amended to read as follows: 75-  
19 5308d. Mental health and retardation services created by the provisions of  
20 K.S.A. 75-5308b is hereby abolished and all of the powers, duties and  
21 functions of such division are transferred to and conferred and imposed  
22 upon mental health and developmental disabilities established pursuant  
23 K.S.A. 75-5308e under the supervision of the secretary ~~of social and~~  
24 ~~rehabilitation for aging and disability~~ services as part of the *Kansas*  
25 ~~department of social and rehabilitation for aging and disability~~ services.  
26 The commissioner of mental health and retardation services created by  
27 K.S.A. 75-5308b is hereby abolished and all of the powers, duties and  
28 functions of such commissioner are transferred to and conferred and  
29 imposed upon the commissioner of mental health and developmental  
30 disabilities appointed pursuant to K.S.A. 75-5308e.

31 Sec. 14. K.S.A. 75-5309 is hereby amended to read as follows: 75-  
32 5309. Except as otherwise provided in this order, or in K.S.A. 75-5310,  
33 ~~and amendments thereto~~, the secretary ~~of social and rehabilitation services~~  
34 ~~for children and families~~ shall appoint, subject to the Kansas civil service  
35 act, all subordinate officers and employees of the *Kansas* ~~department of~~  
36 ~~social and rehabilitation services for children and families~~, and all such  
37 subordinate officers and employees shall be within the classified service.

38 Sec. 15. K.S.A. 2014 Supp. 75-5321a is hereby amended to read as  
39 follows: 75-5321a. The secretary ~~of social and rehabilitation services for~~  
40 ~~children and families~~ shall take necessary actions to transfer the  
41 administration of certain long-term care programs and services to the  
42 secretary ~~of aging for aging and disability services~~. The programs shall  
43 include the nursing facility services payment program, the home and

1 community based services for the frail elderly waiver program, the case  
2 management for the frail elderly program and the income eligible (home  
3 care) program. Excluding nursing facility programs, the programs to be  
4 transferred shall not include long-term care programs for individuals under  
5 the age of 65 with mental illness, intellectual disability, other mental  
6 disabilities or physical disabilities. All such transfers shall be made only in  
7 accordance with federal grant requirements related to such programs.

8 Sec. 16. K.S.A. 75-5364 is hereby amended to read as follows: 75-  
9 5364. (a) As used in this section:

10 (1) "Plan" means the electronic funds transfer remittance plan  
11 established under this section.

12 (2) "Secretary" means the secretary ~~of social and rehabilitation~~  
13 ~~services for children and families.~~

14 (b) ~~The secretary of social and rehabilitation services for children and~~  
15 ~~families,~~ with the assistance of the director of accounts and reports, shall  
16 apply for approval from the federal government to develop and implement  
17 in accordance with this section an electronic funds transfer remittance plan  
18 which will provide that monetary payments, food stamps and medical  
19 assistance benefits made to each recipient of public assistance under article  
20 7 of chapter 39 of the Kansas Statutes Annotated, ~~and acts amendatory of~~  
21 ~~the provisions thereof or supplemental amendments~~ thereto, be made  
22 through an electronic funds transfer remittance system. On and after  
23 January 1, 1995, all monetary payments, food stamps and medical  
24 assistance benefits made to public assistance recipients in those counties in  
25 this state in which the KanWork program has been implemented and which  
26 have been selected by the secretary for the purposes of this section shall be  
27 made through such electronic funds transfer remittance plan. The plan  
28 shall provide that on and after January 1, 1995, each public assistance  
29 recipient, or a person on behalf of the public assistance recipient as  
30 authorized by the secretary, who resides in a county in this state in which  
31 the KanWork program has been implemented and which has been selected  
32 by the secretary for the purposes of this section shall be provided benefits  
33 under this plan.

34 (c) On or before December 31, 1995, the secretary of social and  
35 rehabilitation services shall submit to the governor and to the legislature a  
36 report describing how the electronic funds transfer remittance plan was  
37 implemented, the results of the operation of the plan during the pilot  
38 phase, including any cost savings which have occurred as a result of the  
39 plan, and any recommendations which the secretary may have with respect  
40 to the administration of the plan.

41 Sec. 17. K.S.A. 2014 Supp. 75-6524 is hereby amended to read as  
42 follows: 75-6524. (a) In the coverage for the next health plan coverage  
43 year commencing on January 1, 2011, the state employees health care

1 commission shall provide for the coverage of services for the diagnosis  
2 and treatment of autism spectrum disorder in any covered individual  
3 whose age is less than 19 years. Such coverage shall be subject to the  
4 following terms and conditions:

5 (1) Such coverage shall be provided in a manner determined in  
6 consultation with the autism services provider and the patient. Services  
7 provided by an autism services provider under this section shall include  
8 applied behavioral analysis when required by a licensed physician,  
9 licensed psychologist or licensed specialist clinical social worker but  
10 otherwise shall be limited to those services prescribed or ordered by a  
11 licensed physician, licensed psychologist or licensed specialist clinical  
12 social worker. Services provided pursuant to this paragraph shall be those  
13 services which are or have been recognized by peer reviewed literature as  
14 providing medical benefit to the patient based upon the patient's particular  
15 autism spectrum disorder.

16 (2) Such coverage may be subject to appropriate annual deductibles  
17 and coinsurance provisions as are consistent with those established for  
18 other physical illness benefits under the state employees health plan.

19 (3) Coverage for benefits for any covered person diagnosed with one  
20 or more autism spectrum disorders and whose age is between birth and  
21 less than seven years shall not exceed \$36,000 per year.

22 (4) Coverage for benefits for any covered person diagnosed with one  
23 or more autism spectrum disorders and whose age is at least seven years  
24 and less than 19 years shall not exceed \$27,000 per year.

25 (5) Coverages required under paragraphs (3) and (4) shall be subject  
26 to the same copays, deductibles and dollar limits as benefits for physical  
27 illness; and such other utilization or benefit limits as the state employees  
28 health care commission may determine.

29 (6) Reimbursement shall be allowed only for services provided by a  
30 provider licensed, trained and qualified to provide such services or by an  
31 autism specialist or an intensive individual service provider as such terms  
32 are defined by the *Kansas department of social and rehabilitation for*  
33 *aging and disability* services Kansas autism waiver as it exists on July 1,  
34 2010.

35 (7) Any insurer or other entity which administers claims for services  
36 provided for the treatment of autism spectrum disorder under this section,  
37 and amendments thereto, shall have the right and obligation to:

38 (A) Review utilization of such services; and

39 (B) deny any claim for services based upon medical necessity or a  
40 determination that the covered individual has reached the maximum  
41 medical improvement for the covered individual's autism spectrum  
42 disorder.

43 (b) For the purposes of this section:

1 (1) "Applied behavior analysis" means the design, implementation  
2 and evaluation of environmental modifications, using behavioral stimuli  
3 and consequences, to produce socially significant improvement in human  
4 behavior, including the use of direct observation, measurement and  
5 functional analysis of the relationship between environment and behavior.

6 (2) "Autism spectrum disorder" means the following disorders within  
7 the autism spectrum: Autistic disorder, Asperger's syndrome and pervasive  
8 developmental disorder not otherwise specified, as such terms are  
9 specified in the diagnostic and statistical manual of mental disorders,  
10 fourth edition, text revision (DSM-IV-TR), of the American psychiatric  
11 association, as published in May, 2000, or later versions as established in  
12 rules and regulations adopted by the behavioral sciences regulatory board  
13 pursuant to K.S.A. 74-7507, and amendments thereto.

14 (3) "Diagnosis of autism spectrum disorder" means any medically  
15 necessary assessment, evaluation or test to determine whether an  
16 individual has an autism spectrum disorder.

17 (c) (1) Pursuant to the provisions of K.S.A. 40-2249a, and  
18 amendments thereto, on or before March 1, 2012, the state employees  
19 health care commission shall submit to the president of the senate and to  
20 the speaker of the house of representatives, a report including the  
21 following information pertaining to the mandated coverage for autism  
22 spectrum disorder provided during the plan year commencing on January  
23 1, 2011, and ending on December 31, 2011:

24 (A) The impact that the mandated coverage for autism spectrum  
25 disorder required by subsection (a) has had on the state health care benefits  
26 program;

27 (B) data on the utilization of coverage for autism spectrum disorder  
28 by covered individuals and the cost of providing such coverage for autism  
29 spectrum disorder; and

30 (C) a recommendation whether such mandated coverage for autism  
31 spectrum disorder should continue for the state health care benefits  
32 program or whether additional utilization and cost data is required.

33 (2) At the next legislative session following receipt of the report  
34 required in paragraph (1), the legislature may consider whether or not to  
35 require the coverage for autism spectrum disorder required by subsection  
36 (a) to be included in any individual or group health insurance policy,  
37 medical service plan, contract, hospital service corporation contract,  
38 hospital and medical service corporation contract, fraternal benefit society  
39 or health maintenance organization which provides coverage for accident  
40 and health services and which is delivered, issued for delivery, amended or  
41 renewed in this state on or after July 1, 2013.

42 Sec. 18. K.S.A. 2014 Supp. 75-7033 is hereby amended to read as  
43 follows: 75-7033. On and after July 1, 1997:



1 (a) In order to provide technical assistance to communities, help  
2 facilitate community collaboration and assist in coordinating a statewide  
3 system of community based service providers, pursuant to K.S.A. 75-  
4 7024, and amendments thereto, the commissioner of juvenile justice shall  
5 appoint a community planning team convener and a community planning  
6 team facilitator in each judicial district. The commissioner may appoint a  
7 convener and facilitator for a multiple district planning team, if, in the  
8 commissioner's opinion, such multiple district planning team best furthers  
9 the purposes of the juvenile justice reform act. The convener and facilitator  
10 may be compensated by the grant funds. Upon request of the board of  
11 county commissioners of any county, the commissioner of juvenile justice  
12 may authorize such county to cooperate as a member of a community  
13 planning team in a judicial district other than the judicial district in which  
14 such county is located. If the corporate limits of a city extend into more  
15 than one judicial district and upon request of the board of county  
16 commissioners of any county in which such city is located, the  
17 commissioner of juvenile justice may authorize such city to participate as a  
18 member of a community planning team of and be included in the plan for  
19 the judicial district in which the majority of the population of such city is  
20 located.

21 (b) The community planning team convener shall invite  
22 representatives from the following groups and agencies to be a part of the  
23 community planning team: The courts, court services, public education,  
24 juvenile community correctional services, the county or district attorney,  
25 the public defender's office or private defense counsel, law enforcement,  
26 juvenile detention, prevention services, health care professionals, mental  
27 health services, juvenile intake and assessment, municipal officials, county  
28 officials, private service providers, the department ~~of social and~~  
29 ~~rehabilitation services~~ *for children and families*, the business community,  
30 the religious community, youth and such other representatives as the  
31 convener and commissioner deem necessary. The community planning  
32 team convener may invite the entire membership of the corrections  
33 advisory board, as established in K.S.A. 75-5297, and amendments  
34 thereto, and the juvenile corrections advisory board, as established by  
35 K.S.A. 75-7044, and amendments thereto, to be a part of the community  
36 planning team.

37 (c) The commissioner, or the commissioner's designee shall serve as  
38 an ex officio member of each community planning team.

39 (d) All proceedings of the community planning team and any  
40 committee or subcommittee of the team shall be open to the public in  
41 accordance with and subject to the provisions of K.S.A. 75-4317 to 75-  
42 4320, inclusive, and amendments thereto. The records of the community  
43 planning team shall be open to public inspection at all reasonable times.

1 (e) Between July 1, 1997, and June 30, 1999, the community planning  
2 team shall engage in strategic planning to develop programs, services and  
3 placement options as are necessary and appropriate for each judicial  
4 district's juvenile justice program consistent with planning guidelines  
5 developed by the commissioner. The commissioner shall design the  
6 planning process to empower communities to develop community-based  
7 programs, services and placements sufficient to address juvenile crime and  
8 to appropriately provide programs and services to prevent juvenile crime.  
9 The commissioner shall develop an action plan to guide implementation of  
10 community planning. The action plan shall establish a schedule for the  
11 planning process and shall clearly state desired outcomes of the planning  
12 process. Before implementation of the community planning process, the  
13 commissioner shall submit the proposed action plan to the joint committee  
14 on corrections and juvenile justice oversight for review. The commissioner  
15 shall also provide such committee with regular progress reports on the  
16 status of the planning process. The primary purposes of the community  
17 planning process shall be to:

18 (1) Foster collaboration among stakeholders in the juvenile justice  
19 system;

20 (2) accurately assess community risk factors affecting juveniles;

21 (3) determine community priorities to respond to juvenile crime and  
22 the risk factors affecting juveniles;

23 (4) develop programs, services and placements, with sufficient  
24 capacity, to appropriately hold juvenile offenders in the community  
25 accountable for behavior which violates the law;

26 (5) provide communities with assistance in developing juvenile  
27 justice programs which respond to community needs and priorities and  
28 which are capable of achieving desired outcomes, and in identifying  
29 resources necessary to provide such programs;

30 (6) encourage the staffing of juvenile justice programs with  
31 appropriately trained personnel; and

32 (7) provide communities with technical assistance, as needed, to  
33 achieve desired planning outcomes.

34 (f) The commissioner shall provide training and expertise for  
35 communities during the strategic planning process of the community  
36 planning team.

37 (g) On July 1, 1999, each judicial district, multiple judicial district or  
38 judicial districts and cities and counties cooperating pursuant to subsection  
39 (a) shall have developed and be prepared to implement a juvenile justice  
40 program. On or before June 30, 1999, such program shall be accredited by  
41 the commissioner pursuant to rules and regulations adopted by the  
42 commissioner.

43 (h) Each juvenile justice program shall include, but not be limited to,

1 local prevention services, juvenile intake and assessment, juvenile  
2 detention and attendant care, immediate intervention programs, aftercare  
3 services, graduated sanctions programs, probation programs, conditional  
4 release programs, sanctions for violations of probation terms or programs,  
5 sanctions for violations of conditional release programs and out-of-home  
6 placements.

7 (i) Each juvenile justice program shall demonstrate that in the judicial  
8 district is a continuum of community based placement options with  
9 sufficient capacity to accommodate community needs.

10 (j) Each juvenile justice program shall participate in the juvenile  
11 justice information system, intake and assessment system and the  
12 utilization of a standardized risk assessment data.

13 (k) (1) There is hereby created in the state treasury a juvenile justice  
14 community planning fund. Money credited to the fund shall be used solely  
15 for the purpose of making grants to community planning teams, as  
16 established in this section, to assist with the community planning process  
17 of determining juvenile justice programs for the judicial district.

18 (2) All expenditures from the juvenile justice community planning  
19 fund shall be made in accordance with appropriations acts upon warrants  
20 of the director of accounts and reports issued pursuant to vouchers  
21 approved by the commissioner of juvenile justice or by a person or persons  
22 designated by the commissioner.

23 (3) The commissioner of juvenile justice may apply for, receive and  
24 accept money from any source for the purposes for which money in the  
25 juvenile justice community planning fund may be expended. Upon receipt  
26 of any such money, the commissioner shall remit the entire amount to the  
27 state treasurer in accordance with the provisions of K.S.A. 75-4215, and  
28 amendments thereto. Upon receipt of each such remittance, the state  
29 treasurer shall deposit the entire amount in the state treasury to the credit  
30 of the juvenile justice community planning fund.

31 (4) On or before the 10<sup>th</sup> of each month, the director of accounts and  
32 reports shall transfer from the state general fund to the juvenile justice  
33 community planning fund interest earnings based on:

34 (A) The average daily balance of moneys in the juvenile justice  
35 community planning fund for the preceding month; and

36 (B) the net earnings rate of the pooled money investment portfolio for  
37 the preceding month.

38 (l) (1) There is hereby created in the state treasury a juvenile justice  
39 community initiative fund. Money credited to the fund shall be used solely  
40 for the purpose of making grants to communities to assist in supporting  
41 field services, case management services and juvenile justice programs,  
42 services and placements in the judicial district.

43 (2) All expenditures from the juvenile justice community initiative

1 fund shall be made in accordance with appropriations acts upon warrants  
 2 of the director of accounts and reports issued pursuant to vouchers  
 3 approved by the commissioner of juvenile justice or by a person or persons  
 4 designated by the commissioner.

5 (3) The commissioner of juvenile justice may apply for, receive and  
 6 accept money from any source for the purposes for which money in the  
 7 juvenile justice community initiative fund may be expended. Upon receipt  
 8 of any such money, the commissioner shall remit the entire amount to the  
 9 state treasurer in accordance with the provisions of K.S.A. 75-4215, and  
 10 amendments thereto. Upon receipt of each such remittance, the state  
 11 treasurer shall deposit the entire amount in the state treasury to the credit  
 12 of the juvenile justice community initiative fund.

13 (4) On or before the 10<sup>th</sup> of each month, the director of accounts and  
 14 reports shall transfer from the state general fund to the juvenile justice  
 15 community initiative fund interest earnings based on:

16 (A) The average daily balance of moneys in the juvenile justice  
 17 community initiative fund for the preceding month; and

18 (B) the net earnings rate of the pooled money investment portfolio for  
 19 the preceding month.

20 Sec. 19. K.S.A. 76-157 is hereby amended to read as follows: 76-157.  
 21 Whenever a blind person has been an actual resident of the state for one  
 22 year next preceding, and a student in actual attendance at a community  
 23 junior college in the state or at a college, university, technical or  
 24 professional school located in this state, and authorized by law to grant  
 25 degrees, other than an institution established for the regular instruction of  
 26 the blind, and such student shall be designated by the secretary ~~of social  
 27 and rehabilitation services for children and families~~ as a fit person to  
 28 receive and as one who ought to receive the aid hereinafter provided for,  
 29 ~~said~~ the secretary shall employ persons to read to such student from  
 30 textbooks and pamphlets used by such students in ~~his or her~~ such student's  
 31 studies at such college, university, or school.

32 Sec. 20. K.S.A. 76-158 is hereby amended to read as follows: 76-158.  
 33 The secretary ~~of social and rehabilitation services for children and families~~  
 34 is hereby authorized and empowered to select such persons as are entitled  
 35 to the benefits of this act in the several colleges, universities or schools.  
 36 The secretary ~~of social and rehabilitation services for children and families~~  
 37 shall not furnish a reader to any blind person who is not regularly  
 38 matriculated; who is not in good and regular standing; who is not working  
 39 for a degree from the institution in which ~~he or she~~ such person is  
 40 matriculated, and who is not doing the work regularly prescribed by the  
 41 institution for the degree for which ~~he or she~~ such person is a candidate,  
 42 and after making such selection the secretary ~~of social and rehabilitation  
 43 services for children and families~~ is authorized to name and designate

1 some suitable and capable person to read to such blind student from  
2 textbooks and pamphlets used by ~~him or her~~ *such person* in studies in such  
3 college, university, or school and to fix the pay to be received by such  
4 reader for such services.

5 Sec. 21. K.S.A. 76-12a24 is hereby amended to read as follows: 76-  
6 12a24. The secretary ~~of social and rehabilitation~~ *for aging and disability*  
7 services is authorized to enter into an agreement with the secretary of  
8 corrections concerning the management and utilization of buildings and  
9 land currently not being used at state institutions under the authority of the  
10 secretary ~~of social and rehabilitation~~ *for aging and disability* services for  
11 the placement of persons in the custody of the secretary of corrections.  
12 The secretary of corrections shall provide supervision and security for  
13 persons placed under any such agreement.

14 Sec. 22. K.S.A. 75-5308d, 75-5309, 75-5364, 76-157, 76-158 and 76-  
15 12a24 and K.S.A. 2014 Supp. 8-2,144, 8-1025, 21-5909, 36-502, 38-2006,  
16 38-2212, 39-1702, 40-4702, 59-29a24, 65-689, 65-6233, 75-7d01, 75-  
17 5321a, 75-6524 and 75-7033 are hereby repealed.

18 Sec. 23. This act shall take effect and be in force from and after its  
19 publication in the statute book.