

HOUSE BILL No. 2436

By Committee on Federal and State Affairs

3-17

1 AN ACT concerning health and healthcare; enacting the Kansas medical
2 marijuana regulation act; relating to medical cannabis; providing for the
3 licensure and regulation of medical cannabis, including the
4 manufacture, transportation and sale of medical cannabis; providing
5 certain fines and penalties for violations of the act; relating to health
6 benefits coverage; expanding medical assistance eligibility; directing
7 the department of health and environment to study certain medicaid
8 expansion topics; adding meeting days to the Robert G. (Bob) Bethell
9 joint committee on home and community based services and KanCare
10 oversight to monitor implementation; making and concerning
11 appropriations for the fiscal years ending June 30, 2021, June 30, 2022,
12 and June 30, 2023; amending K.S.A. 65-28b08, 79-5201 and 79-5210
13 and K.S.A. 2020 Supp. 21-5703, 21-5705, 21-5706, 21-5707, 21-5709,
14 21-5710, 23-3203, 38-2269, 39-7,160, 40-3213, 44-501, 44-706, 44-
15 1009, 44-1015 and 65-1120 and repealing the existing sections.

16

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

18 New Section 1. (a) The provisions of sections 1 through 47, and
19 amendments thereto, shall be known and may be cited as the Kansas
20 medical marijuana regulation act.

21 (b) This section shall take effect on and after July 1, 2023.

22 New Sec. 2. (a) As used in this act:

23 (1) "Act" means the Kansas medical marijuana regulation act.

24 (2) "Academic medical center" means a medical school and its
25 affiliated teaching hospitals and clinics.

26 (3) "Associated employee" means an owner or prospective owner,
27 officer or board member or prospective board member of an entity seeking
28 a retail dispensary license.

29 (4) "Board of healing arts" means the state board of healing arts.

30 (5) "Caregiver" means a person registered pursuant to section 8, and
31 amendments thereto, who may purchase and possess medical marijuana in
32 accordance with section 11, and amendments thereto.

33 (6) "Cultivator" means a person licensed pursuant to section 20, and
34 amendments thereto, who may grow and sell medical marijuana in
35 accordance with section 21, and amendments thereto.

36 (7) "Disqualifying offense" means a criminal offense, the conviction

1 of which renders such person unfit for registration or licensure under this
2 act.

3 (8) "Distributor" means a person licensed pursuant to section 20, and
4 amendments thereto, who may purchase and sell medical marijuana in
5 accordance with section 23, and amendments thereto.

6 (9) "Electronic cigarette" means the same as defined in K.S.A. 79-
7 3301, and amendments thereto.

8 (10) "Key employee" means a manager or other person responsible
9 for the daily operation of a licensed retail dispensary.

10 (11) "Marijuana" means the same as defined in K.S.A. 65-4101, and
11 amendments thereto.

12 (12) "Medical marijuana" means marijuana that is cultivated,
13 processed, tested, dispensed, possessed or used for a medical purpose.

14 (13) "Owned and controlled" means ownership of at least 51% of the
15 business, including corporate stock if a corporation, control over the
16 management and day-to-day operations of the business and an interest in
17 the capital, assets and profits and losses of the business proportionate to
18 such owner's percentage of ownership.

19 (14) "Patient" means a person registered pursuant to section 8, and
20 amendments thereto, who may purchase and possess medical marijuana in
21 accordance with section 10, and amendments thereto.

22 (15) "Postsecondary educational institution" means the same as
23 defined in K.S.A. 74-3201b, and amendments thereto.

24 (16) "Processor" means a person licensed pursuant to section 20, and
25 amendments thereto, who may purchase, process and sell medical
26 marijuana in accordance with section 22, and amendments thereto.

27 (17) "Physician" means a person licensed to practice medicine and
28 surgery in this state and who is certified by the board of healing arts to
29 recommend treatment with medical marijuana pursuant to section 17, and
30 amendments thereto.

31 (18) "Qualifying medical condition" means any of the following:

32 (A) Acquired immune deficiency syndrome;

33 (B) Alzheimer's disease;

34 (C) amyotrophic lateral sclerosis;

35 (D) cancer;

36 (E) chronic traumatic encephalopathy;

37 (F) Crohn's disease;

38 (G) epilepsy or another seizure disorder;

39 (H) fibromyalgia;

40 (I) glaucoma;

41 (J) hepatitis C;

42 (K) inflammatory bowel disease;

43 (L) multiple sclerosis;

- 1 (M) pain that is either chronic and severe or intractable;
- 2 (N) Parkinson's disease;
- 3 (O) positive status for HIV;
- 4 (P) post-traumatic stress disorder;
- 5 (Q) sickle cell anemia;
- 6 (R) spinal cord disease or injury;
- 7 (S) Tourette's syndrome;
- 8 (T) traumatic brain injury;
- 9 (U) ulcerative colitis; or
- 10 (V) any other disease or condition approved by the secretary of health
- 11 and environment pursuant to section 19, and amendments thereto.
- 12 (18) "Retail dispensary" means a person licensed pursuant to section
- 13 25, and amendments thereto, who may purchase and sell medical
- 14 marijuana in accordance with section 26, and amendments thereto.
- 15 (19) "Smoking" means the use of a lighted cigarette, cigar or pipe or
- 16 otherwise burning marijuana in any other form for the purpose of
- 17 consuming such marijuana.
- 18 (20) "Support employee" means a person employed by a licensed
- 19 retail dispensary who does not have authority to make operational
- 20 decisions.
- 21 (21) "Vaporization" means the use of an electronic cigarette for the
- 22 purpose of consuming marijuana.
- 23 (22) "Veteran" means a person who has been separated from the
- 24 army, navy, marine corps, air force, coast guard, air or army national guard
- 25 or any branch of the military reserves of the United States and was
- 26 honorably discharged or received a general discharge under honorable
- 27 conditions.
- 28 (b) This section shall take effect on and after July 1, 2023.
- 29 New Sec. 3. (a) No person shall grow, harvest, process, sell, barter,
- 30 transport, deliver, furnish or otherwise possess any form of marijuana,
- 31 except as specifically provided in the Kansas medical marijuana regulation
- 32 act or the commercial industrial hemp act, K.S.A. 2020 Supp. 2-3901 et
- 33 seq., and amendments thereto.
- 34 (b) Nothing in this act shall be construed to:
- 35 (1) Require a physician to recommend that a patient use medical
- 36 marijuana to treat a qualifying medical condition;
- 37 (2) permit the use, possession or administration of medical marijuana
- 38 other than as authorized by this act;
- 39 (3) permit the use, possession or administration of medical marijuana
- 40 on federal land located in this state;
- 41 (4) require any public place to accommodate a registered patient's use
- 42 of medical marijuana;
- 43 (5) prohibit any public place from accommodating a registered

1 patient's use of medical marijuana; or

2 (6) restrict research related to marijuana conducted at a postsecondary
3 educational institution, academic medical center or private research and
4 development organization as part of a research protocol approved by an
5 institutional review board or equivalent entity.

6 (c) This section shall take effect on and after July 1, 2023.

7 New Sec. 4. (a) There is hereby established a Kansas medical
8 marijuana regulation program.

9 (b) The secretary of health and environment shall administer the
10 program in accordance with the provisions of this act and provide for the
11 registration of patients and caregivers, including the issuance of
12 identification cards to registered patients and caregivers.

13 (c) The director of alcoholic beverage control shall administer the
14 program in accordance with the provisions of this act and provide for the
15 licensure of cultivators, laboratories, processors, distributors and retail
16 dispensaries.

17 (d) This section shall take effect on and after July 1, 2023.

18 New Sec. 5. (a) The medical marijuana advisory committee is hereby
19 created in the department of health and environment. The committee shall
20 consist of the following:

21 (1) Eight members appointed by the governor as follows:

22 (A) Two members who hold a medical cannabis industry license
23 issued by the division of alcoholic beverage control, as least one of whom
24 is a licensed cultivator;

25 (B) two members who are practicing physicians, at least one of whom
26 is certified by the board of healing arts to prescribe medical marijuana;

27 (C) one member who is a practicing pharmacist licensed by the state
28 board of pharmacy;

29 (D) one member who is a nurse or nurse practitioner with experience
30 in palliative or hospice care licensed by the state board of nursing;

31 (E) one member who represents law enforcement; and

32 (F) one member who engages in academic research on the use or
33 regulation of medical marijuana;

34 (2) one member who is a master's addiction counselor or clinical
35 addiction counselor licensed by the behavioral sciences regulatory board,
36 appointed by the president of the senate;

37 (3) one member who is a registered caregiver, appointed by the
38 minority leader of the senate;

39 (4) one member who is a master social worker, specialist clinical
40 social worker, master's addiction counselor, clinical addiction counselor,
41 master's level psychologist, clinical psychotherapist, professional
42 counselor or clinical professional counselor, licensed by the behavioral
43 sciences regulatory board, appointed by the speaker of the house of

1 representatives;

2 (5) one member who is a registered patient, appointed by the minority
3 leader of the house of representatives; and

4 (6) the secretary of health and environment, or the secretary's
5 designee, who shall serve as chairperson.

6 (b) The initial appointments to the committee shall be made on or
7 before July 31, 2021.

8 (c) Except for the secretary of health and environment, each member
9 of the committee shall serve from the date of appointment until the
10 committee ceases to exist, except that members shall serve at the pleasure
11 of the appointing authority. A vacancy shall be filled in the same manner
12 as the original appointment.

13 (d) Each member of the committee shall be paid compensation,
14 subsistence allowances, mileage and other expenses as provided in K.S.A.
15 75-3223(e), and amendments thereto.

16 (e) The committee shall hold its initial meeting not later than 30 days
17 after the last member of the committee is appointed. The committee may
18 develop and submit to the secretary of health and environment and the
19 director of alcoholic beverage control any recommendations related to the
20 Kansas medical marijuana regulation program and the implementation and
21 enforcement of this act.

22 (f) The medical marijuana advisory committee shall develop policies
23 and procedures for the review, approval and denial of petitions for
24 approval of a qualifying medical condition submitted pursuant to section
25 19, and amendments thereto.

26 (g) The medical marijuana advisory committee shall make
27 recommendations to the secretary of health and environment and the
28 director of alcoholic beverage control regarding those offenses that would
29 disqualify an applicant from registration or licensure by the respective
30 state agency. The committee shall annually review such offenses and make
31 any subsequent recommendations the committee deems necessary.

32 (h) The provisions of this section shall expire on July 1, 2026.

33 New Sec. 6. (a) Except as permitted under subsection (c), the
34 following individuals shall not solicit or accept, directly or indirectly, any
35 gift, gratuity, emolument or employment from any person who is an
36 applicant for any license or is a licensee under the provisions of the Kansas
37 medical marijuana regulation act or any officer, agent or employee thereof,
38 or solicit requests from or recommend, directly or indirectly, to any such
39 person the appointment of any individual to any place or position:

40 (1) The secretary of health and environment or any officer, employee
41 or agent of the department of health and environment;

42 (2) the secretary of revenue, the director of alcoholic beverage control
43 or any officer, employee or agent of the division of alcoholic beverage

1 control; or

2 (3) any member of the board of healing arts.

3 (b) Except as permitted under subsection (c), an applicant for a
4 license or a licensee under the provisions of this act shall not offer any gift,
5 gratuity, emolument or employment to any of the following:

6 (1) The secretary of health and environment or any officer, employee
7 or agent of the department of health and environment;

8 (2) the secretary of revenue, the director of alcoholic beverage control
9 or any officer, employee or agent of the division of alcoholic beverage
10 control; or

11 (3) any member of the board of healing arts.

12 (c) The board of healing arts and the secretaries of health and
13 environment and revenue may adopt rules and regulations for their
14 respective agencies allowing the acceptance of official hospitality by
15 members of the board of healing arts or the secretary and employees of
16 each such respective agency, subject to any limits as prescribed by such
17 rules and regulations.

18 (d) If any member of the board of healing arts, the secretary of health
19 and environment, the secretary of revenue or any employee of each such
20 respective agency violates any provision of this section, such person shall
21 be removed from such person's office or employment.

22 (e) Violation of any provision of this section is a misdemeanor
23 punishable by a fine of not to exceed \$500 or imprisonment of not less
24 than 60 days nor more than six months, or both such fine and
25 imprisonment.

26 (f) Nothing in this section shall be construed to prohibit the
27 prosecution and punishment of any person for bribery as defined in the
28 Kansas criminal code.

29 (g) This section shall take effect on and after July 1, 2023.

30 New Sec. 7. (a) All actions taken by the board of healing arts, the
31 secretary of health and environment or the director of alcoholic beverage
32 control under the Kansas medical marijuana regulation act shall be in
33 accordance with the Kansas administrative procedure act and reviewable
34 in accordance with the Kansas judicial review act.

35 (b) This section shall take effect on and after July 1, 2023.

36 New Sec. 8. (a) A patient seeking to use medical marijuana or a
37 caregiver seeking to assist a patient in the use or administration of medical
38 marijuana shall apply to the department of health and environment for
39 registration. The physician who is treating the patient, or such physician's
40 designee, shall submit the application on the patient's or caregiver's behalf
41 in such form and manner as prescribed by the secretary of health and
42 environment.

43 (b) The application for registration shall include the following:

1 (1) A statement from the physician certifying that:

2 (A) A bona fide physician-patient relationship exists between the
3 physician and patient;

4 (B) the patient has been diagnosed with a qualifying medical
5 condition;

6 (C) the physician, or such physician's designee, has requested from
7 the prescription monitoring program database a report of information
8 related to the patient that covers at least the 12 months immediately
9 preceding the date of the report;

10 (D) the physician has informed the patient of the risks and benefits of
11 medical marijuana as it pertains to the patient's qualifying medical
12 condition and medical history; and

13 (E) the physician has informed the patient that it is the physician's
14 opinion that the benefits of medical marijuana outweigh its risks;

15 (2) in the case of an application submitted on behalf of a patient, the
16 name or names of one or more caregivers, if any, who will assist the
17 patient in the use or administration of medical marijuana;

18 (3) in the case of an application submitted on behalf of a caregiver,
19 the name of the patient or patients whom the caregiver seeks to assist in
20 the use or administration of medical marijuana; and

21 (4) in the case of a patient who is a minor, the name of the patient's
22 parent or legal guardian who has consented to such patient's treatment with
23 medical marijuana and who shall be designated as the patient's caregiver.

24 (c) If the application is complete and meets the requirements of this
25 act and rules and regulations adopted thereunder and the patient or
26 caregiver has paid the required fee, the secretary of health and
27 environment shall register the patient or caregiver and issue to the patient
28 or caregiver an identification card.

29 (d) (1) A registered caregiver shall be at least 21 years of age, unless
30 the caregiver is the parent or legal guardian of a patient who is a minor,
31 then the registered caregiver shall be at least 18 years of age.

32 (2) A registered patient may designate up to two registered
33 caregivers. If the patient is a minor, a parent or legal guardian of such
34 patient shall be designated as a registered caregiver for such patient.

35 (3) A registered caregiver may provide assistance to not more than
36 two registered patients, unless the secretary approves a higher number of
37 registered patients.

38 (4) A physician who submits an application on behalf of a patient
39 may not serve as such patient's registered caregiver.

40 (e) Any information collected by the department of health and
41 environment pursuant to this section is confidential and not a public
42 record. The department may share information identifying a specific
43 patient with a licensed retail dispensary or any law enforcement agency for

1 the purpose of confirming that such patient has a valid registration.
2 Information that does not identify a person may be released in summary,
3 statistical or aggregate form. The provisions of this subsection shall expire
4 on July 1, 2026, unless the legislature reviews and reenacts such
5 provisions in accordance with K.S.A. 45-229, and amendments thereto,
6 prior to July 1, 2026.

7 (f) The fees for a patient or caregiver registration, or the renewal
8 thereof, shall be set by rules and regulations adopted by the secretary of
9 health and environment in an amount not to exceed:

10 (1) Except as specified in paragraph (2), \$50 for a patient registration;

11 (2) \$25 for a patient registration if the patient is indigent or is a
12 veteran; and

13 (3) \$25 for a caregiver registration.

14 (g) A registration shall be valid for a period of one year from the
15 effective date and may be renewed by submitting a registration renewal
16 application and paying the required fee.

17 (h) This section shall take effect on and after July 1, 2023.

18 New Sec. 9. (a) The department of health and environment shall
19 assign a unique identification number to each registered patient and
20 caregiver when issuing an identification card. Licensed retail dispensaries
21 may request verification by the department that a patient or caregiver has a
22 valid registration.

23 (b) This section shall take effect on and after July 1, 2023.

24 New Sec. 10. (a) A patient registered pursuant to section 8, and
25 amendments thereto, who obtains medical marijuana from a licensed retail
26 dispensary may:

27 (1) Use medical marijuana;

28 (2) subject to subsection (b), possess medical marijuana; and

29 (3) possess any paraphernalia or accessories as specified in rules and
30 regulations adopted by the secretary of health and environment.

31 (b) A registered patient may possess medical marijuana in an amount
32 not to exceed a 90-day supply.

33 (c) Nothing in this section shall be construed to authorize a registered
34 patient to operate a motor vehicle, watercraft or aircraft while under the
35 influence of medical marijuana.

36 (d) This section shall take effect on and after July 1, 2023.

37 New Sec. 11. (a) A caregiver registered pursuant to section 8, and
38 amendments thereto, who obtains medical marijuana from a licensed retail
39 dispensary may:

40 (1) Subject to subsection (b), possess medical marijuana on behalf of
41 a registered patient under the caregiver's care;

42 (2) assist a registered patient under the caregiver's care in the use or
43 administration of medical marijuana; and

1 (3) possess any paraphernalia or accessories as specified in rules and
2 regulations adopted by the secretary of health and environment.

3 (b) A registered caregiver may possess medical marijuana on behalf
4 of a registered patient in an amount not to exceed a 90-day supply. If a
5 caregiver provides care to more than one registered patient, the caregiver
6 shall maintain separate inventories of medical marijuana for each patient.

7 (c) Nothing in this section shall be construed to permit a registered
8 caregiver to personally use medical marijuana unless the caregiver is also a
9 registered patient.

10 (d) This section shall take effect on and after July 1, 2023.

11 New Sec. 12. (a) In addition to or in lieu of any other civil or criminal
12 penalty as provided by law, the secretary of health and environment may
13 impose a civil penalty or suspend or revoke a registration upon a finding
14 that the patient or caregiver committed a violation as provided in this
15 section.

16 (b) Nothing in this act shall be construed to require the secretary to
17 enforce minor violations if the secretary determines that the public interest
18 is adequately served by a notice or warning to the alleged offender.

19 (c) Upon a finding that a registrant has submitted fraudulent
20 information or otherwise falsified or misrepresented information required
21 to be submitted by such registrant, the secretary may impose a civil fine of
22 not to exceed \$500 for a first offense and may suspend or revoke the
23 individual's registration for a second or subsequent offense.

24 (d) If the secretary suspends, revokes or refuses to renew any
25 registration issued pursuant to this act and determines that there is clear
26 and convincing evidence of a danger of immediate and serious harm to any
27 person, the secretary may place under seal all medical marijuana owned by
28 or in the possession, custody or control of the affected registrant. Except as
29 provided in this section, the secretary shall not dispose of the sealed
30 medical marijuana until a final order is issued authorizing such disposition.
31 During the pendency of an appeal from any order issued by the secretary, a
32 court may order the secretary to sell medical marijuana that is perishable,
33 and the proceeds of any such sale shall be deposited with the court.

34 (e) This section shall take effect on and after July 1, 2023.

35 New Sec. 13. (a) There is hereby established the medical marijuana
36 registration fund in the state treasury. The secretary of health and
37 environment shall administer the medical marijuana registration fund and
38 shall remit all moneys collected from the payment of all fees and fines
39 imposed by the secretary pursuant to the Kansas medical marijuana
40 regulation act and any other moneys received by or on behalf of the
41 secretary pursuant to such act to the state treasurer in accordance with the
42 provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of
43 each such remittance, the state treasurer shall deposit the entire amount in

1 the state treasury to the credit of the medical marijuana registration fund.
2 Moneys credited to the medical marijuana registration fund shall only be
3 expended or transferred as provided in this section. Expenditures from
4 such fund shall be made in accordance with appropriation acts upon
5 warrants of the director of accounts and reports issued pursuant to
6 vouchers approved by the secretary or the secretary's designee.

7 (b) Moneys in the medical marijuana registration fund shall be used
8 for the payment or reimbursement of costs related to the regulation and
9 enforcement of the possession and use of medical marijuana by the
10 secretary.

11 (c) This section shall take effect on and after July 1, 2023.

12 New Sec. 14. (a) On or before July 1, 2023, the secretary of health
13 and environment shall adopt rules and regulations to administer the Kansas
14 medical marijuana regulation program and implement and enforce the
15 provisions of the Kansas medical marijuana regulation act. Such rules and
16 regulations shall:

17 (1) Establish procedures for registration of patients and caregivers
18 and eligibility requirements for registration;

19 (2) establish procedures for the issuance of patient or caregiver
20 identification cards;

21 (3) establish a renewal schedule, renewal procedures and renewal
22 fees for registrations;

23 (4) specify, by form and tetrahydrocannabinol content, a maximum
24 90-day supply of medical marijuana that may be possessed;

25 (5) specify the paraphernalia or other accessories that may be used in
26 the administration to a registered patient pursuant to section 8, and
27 amendments thereto;

28 (6) specify the forms or methods of using medical marijuana that are
29 attractive to children;

30 (7) establish procedures for reviewing, approving and denying
31 petitions for approval of new forms or methods of using medical
32 marijuana;

33 (8) establish a program to assist in obtaining medical marijuana for
34 patients who are indigent or who are veterans; and

35 (9) establish procedures for reviewing, approving and denying a
36 petition for approval of a qualifying medical condition submitted pursuant
37 to section 19, and amendments thereto.

38 (b) When adopting rules and regulations under this section, the
39 secretary shall consider standards and procedures that have been found to
40 be best practices relative to the use and regulation of medical marijuana.

41 New Sec. 15. On or before July 1, 2023, the department of health and
42 environment shall make a website available for the public to access
43 information regarding patient and caregiver registration under the Kansas

1 medical marijuana regulation act.

2 New Sec. 16. (a) The secretary of health and environment shall
3 negotiate in good faith to enter into a reciprocity agreement with any other
4 state under which a medical marijuana registry identification card or
5 equivalent authorization issued by the other state is recognized in this
6 state. A reciprocity agreement may be entered into only if the secretary
7 determines that the following apply:

8 (1) The eligibility requirements imposed by the other state for
9 authorization to purchase, possess and use medical marijuana are
10 substantially comparable to the eligibility requirements for a patient or
11 caregiver registration and identification card issued under section 8, and
12 amendments thereto; and

13 (2) the other state recognizes a patient or caregiver registration and
14 identification card issued under section 8, and amendments thereto.

15 (b) If a reciprocity agreement is entered into in accordance with this
16 section, the authorization issued by the other state shall be recognized in
17 this state, shall be accepted and valid in this state and shall grant the
18 patient or caregiver the same right to use, possess, obtain or administer
19 medical marijuana in this state as a patient or caregiver issued a
20 registration and identification card under section 8, and amendments
21 thereto.

22 (c) This section shall take effect on and after July 1, 2023.

23 New Sec. 17. (a) Except as provided in subsection (j), a physician
24 seeking to recommend treatment with medical marijuana shall apply to the
25 board of healing arts for a certificate authorizing such physician to
26 recommend treatment with medical marijuana. The application shall be
27 submitted in such form and manner as prescribed by the board. The board
28 shall grant a certificate to recommend if the following conditions are
29 satisfied:

30 (1) The application is complete and meets the requirements
31 established in rules and regulations adopted by the board of healing arts;
32 and

33 (2) the applicant demonstrates that the applicant does not have an
34 ownership or investment interest in or compensation arrangement with an
35 entity licensed by the department of health and environment or the director
36 of alcoholic beverage control under this act and is not an applicant for such
37 licensure.

38 (b) A certificate to recommend shall be renewed when the holder's
39 license to practice medicine and surgery is renewed, conditioned upon the
40 holder's certification of having met the requirements in subsection (a) and
41 having completed at least two hours of continuing medical education in
42 medical marijuana annually in accordance with subsection (g).

43 (c) A physician who holds a certificate to recommend treatment with

1 medical marijuana may recommend that a patient be treated with medical
2 marijuana if:

3 (1) The patient has been diagnosed with a qualifying medical
4 condition;

5 (2) a bona fide physician-patient relationship has existed for a
6 minimum of 12 months, or as otherwise specified by rules and regulations
7 adopted by the board;

8 (3) an in-person physical examination of the patient was performed
9 by the physician; and

10 (4) the physician, or the physician's designee, has requested from the
11 prescription monitoring program database a report of information related
12 to the patient that covers at least the 12 months immediately preceding the
13 date of the report, and the physician has reviewed such report.

14 (d) In the case of a patient who is a minor, the physician may
15 recommend treatment with medical marijuana only after obtaining the
16 consent of the patient's parent or other person responsible for providing
17 consent to treatment.

18 (e) When issuing a written recommendation to a patient, the
19 physician shall specify any information required by rules and regulations
20 adopted by the board of healing arts. A written recommendation issued to a
21 patient under this section is valid for a period of not more than 90 days.
22 The physician may renew the recommendation for not more than three
23 additional periods of not more than 90 days each. Thereafter, the physician
24 may issue another recommendation to the patient only upon a physical
25 examination of the patient.

26 (f) Each year a physician holding a certificate to recommend
27 treatment with medical marijuana shall submit to the board of healing arts
28 a report that describes the physician's observations regarding the
29 effectiveness of medical marijuana in treating the physician's patients
30 during the year covered by the report. When submitting reports, a
31 physician shall not include any information that identifies or would tend to
32 identify any specific patient.

33 (g) Annually, each physician who holds a certificate to recommend
34 treatment with medical marijuana shall complete at least two hours of
35 continuing medical education in the treatment with and use of medical
36 marijuana as approved by the board of healing arts.

37 (h) A physician shall not issue a recommendation for treatment with
38 medical marijuana for a family member or the physician's self, or
39 personally furnish or otherwise dispense medical marijuana.

40 (i) A physician who holds a certificate to recommend treatment with
41 medical marijuana shall be immune from civil liability, shall not be subject
42 to professional disciplinary action by the board of healing arts and shall
43 not be subject to criminal prosecution for any of the following actions:

1 (1) Advising a patient, patient representative or caregiver about the
2 benefits and risks of medical marijuana to treat a qualifying medical
3 condition;

4 (2) recommending that a patient use medical marijuana to treat or
5 alleviate a qualifying medical condition; and

6 (3) monitoring a patient's treatment with medical marijuana.

7 (j) This section shall not apply to a physician who recommends
8 treatment with marijuana or a drug derived from marijuana under any of
9 the following that is approved by an institutional review board or
10 equivalent entity, the United States food and drug administration or the
11 national institutes of health or one of its cooperative groups or centers
12 under the United States department of health and human services:

13 (1) A research protocol;

14 (2) a clinical trial;

15 (3) an investigational new drug application; or

16 (4) an expanded access submission.

17 (k) This section shall take effect on and after July 1, 2023.

18 New Sec. 18. (a) On or before July 1, 2023, the board of healing arts
19 shall adopt rules and regulations to implement and enforce the provisions
20 of section 17, and amendments thereto. Such rules and regulations shall
21 include:

22 (1) The procedures for applying for a certificate to recommend
23 treatment with medical marijuana;

24 (2) the conditions for eligibility for a certificate to recommend
25 treatment with medical marijuana;

26 (3) the schedule and procedures for renewing such a certificate;

27 (4) the reasons for which a certificate may be denied, suspended or
28 revoked;

29 (5) the standards under which a certificate suspension may be lifted;
30 and

31 (6) the minimum standards of care when recommending treatment
32 with medical marijuana.

33 (b) The board of healing arts shall approve one or more continuing
34 medical education courses of study that assist physicians holding
35 certificates to recommend treatment with medical marijuana in diagnosing
36 and treating qualifying medical conditions with medical marijuana.

37 New Sec. 19. (a) Any person may submit a petition to the medical
38 marijuana advisory committee requesting that a disease or condition be
39 added as a qualifying medical condition for the purposes of this act. The
40 petition shall be submitted in such form and manner as prescribed by the
41 secretary of health and environment. A petition shall not seek to add a
42 broad category of diseases or conditions, but shall be limited to one
43 disease or condition and shall include a description of such disease or

1 condition.

2 (b) Upon receipt of a petition, the committee shall review such
3 petition to determine whether to recommend the approval or denial of the
4 disease or condition described in the petition as an addition to the list of
5 qualifying medical conditions. The committee may consolidate the review
6 of petitions for the same or similar diseases or conditions. In making its
7 determination, the committee shall:

8 (1) Consult with one or more experts who specialize in the study of
9 the disease or condition;

10 (2) review any relevant medical or scientific evidence pertaining to
11 the disease or condition;

12 (3) consider whether conventional medical therapies are insufficient
13 to treat or alleviate the disease or condition;

14 (4) review evidence supporting the use of medical marijuana to treat
15 or alleviate the disease or condition; and

16 (5) review any letters of support provided by physicians with
17 knowledge of the disease or condition, including any letter provided by a
18 physician treating the petitioner.

19 (c) Upon completion of its review, the committee shall make a
20 recommendation to the secretary of health and environment whether to
21 approve or deny the addition of the disease or condition to the list of
22 qualifying medical conditions. The secretary shall adopt rules and
23 regulations in accordance with the recommendation of the committee.

24 (d) This section shall take effect on and after July 1, 2023.

25 New Sec. 20. (a) Any entity that seeks to cultivate, process or
26 distribute medical marijuana or to conduct laboratory testing of medical
27 marijuana shall submit an application for the appropriate license to the
28 director of alcoholic beverage control in such form and manner as
29 prescribed by the director. A separate license application shall be submitted
30 for each location to be operated by the licensee.

31 (b) The director shall issue a license to an applicant if:

32 (1) The criminal history record check conducted pursuant to section
33 37, and amendments thereto, with respect to the applicant demonstrates the
34 following:

35 (A) Subject to subparagraph (B), that the individual subject to the
36 criminal history record check requirement has not been convicted of or
37 pleaded guilty to any of the disqualifying offenses as specified in rules and
38 regulations adopted by the secretary; or

39 (B) that the disqualifying offense such individual was convicted of or
40 pleaded guilty to is one of the offenses specified in rules and regulations as
41 one that will not disqualify the applicant if the applicant was convicted of
42 or pleaded guilty to the offense more than five years prior to the date the
43 application for licensure is submitted;

1 (2) the applicant is not applying for a laboratory license and
2 demonstrates that the applicant does not have an ownership or investment
3 interest in or compensation arrangement with a laboratory licensed under
4 this section and is not an applicant for such license;

5 (3) the applicant is not applying for a laboratory license and
6 demonstrates that it does not share any corporate officers or employees
7 with a laboratory licensed under this section and is not an applicant for
8 such license;

9 (4) the applicant demonstrates that the applicant will not violate the
10 provisions of section 36, and amendments thereto;

11 (5) the applicant has submitted a tax clearance certificate issued by
12 the department of revenue; and

13 (6) the applicant meets all other licensure eligibility conditions
14 established in rules and regulations adopted by the secretary and has paid
15 all required fees.

16 (c) A license shall be valid for a period of one year from the date such
17 license is issued and may be renewed by submitting a license renewal
18 application and paying the required fee.

19 (d) A cultivator shall not employ an individual who:

20 (1) Does not hold a current, valid employee license issued pursuant to
21 section 25, and amendments thereto; and

22 (2) has not completed the training as required by the secretary of
23 revenue in rules and regulations.

24 (e) This section shall take effect on and after July 1, 2023.

25 New Sec. 21. (a) (1) A level I cultivator licensee may cultivate
26 medical marijuana in an area that shall not exceed 25,000 square feet and
27 may deliver or sell medical marijuana to one or more licensed processors.

28 (2) A level II cultivator licensee may cultivate medical marijuana in
29 an area that shall not exceed 3,000 square feet and may deliver or sell
30 medical marijuana to one or more licensed processors.

31 (b) (1) A licensee may submit an application to the director for
32 approval of an expansion of such licensee's cultivation area. Expansion
33 approval applications shall be submitted in such form and manner as
34 prescribed by the director and shall include an expansion plan that shall
35 include the following:

36 (A) Specifications for the expansion or alteration that demonstrate
37 compliance with all applicable zoning ordinances, building codes and any
38 other state and local laws and rules and regulations adopted thereunder;

39 (B) a proposed timeline for completion of the expansion that, if
40 approved, will become a mandatory condition; and

41 (C) a history of compliance with the Kansas medical marijuana
42 regulation act and all rules and regulations adopted thereunder, including a
43 history of enforcement actions and sanctions issued by the director or any

1 law enforcement agency against the licensee.

2 (2) The director shall review all expansion approval applications. In
3 determining whether to approve or deny any application, the director shall
4 consider the population of this state and the number of patients seeking to
5 use medical marijuana. No licensee may submit an application for
6 expansion more than once during any 12-month period.

7 (3) In no event shall the aggregate area of cultivation of a licensee
8 exceed 75,000 square feet if the licensee holds a level I cultivator license
9 or 9,000 square feet if the licensee holds a level II cultivator license.

10 (c) A licensed cultivator shall not cultivate medical marijuana for
11 personal, family or household use or on any public land.

12 (d) This section shall take effect on and after July 1, 2023.

13 New Sec. 22. (a) A processor licensee may:

14 (1) Obtain medical marijuana from one or more licensed cultivators
15 or processors;

16 (2) subject to subsection (b), process medical marijuana obtained
17 from one or more licensed cultivators into a form described in section 27,
18 and amendments thereto; and

19 (3) deliver or sell processed medical marijuana to one or more
20 licensed processors or distributors.

21 (b) When processing medical marijuana, a licensed processor shall:

22 (1) Package the medical marijuana in accordance with child-resistant
23 effectiveness standards described in 16 C.F.R. § 1700.15(b) in effect on
24 July 1, 2021;

25 (2) label the medical marijuana packaging with the product's
26 tetrahydrocannabinol and cannabidiol content; and

27 (3) comply with any packaging or labeling requirements established
28 by rules and regulations adopted by the secretary of revenue.

29 (c) A processor shall not employ an individual who:

30 (1) Does not hold a current, valid employee license issued pursuant to
31 section 25, and amendments thereto; and

32 (2) has not completed the training as required by the secretary of
33 revenue in rules and regulations.

34 (d) This section shall take effect on and after July 1, 2023.

35 New Sec. 23. (a) A distributor licensee may:

36 (1) Purchase at wholesale medical marijuana from one or more
37 licensed processors;

38 (2) store medical marijuana obtained from one or more licensed
39 processors in a form described in section 27, and amendments thereto; and

40 (3) deliver or sell processed medical marijuana to one or more
41 licensed retail dispensaries.

42 (b) When storing or selling medical marijuana, a licensed distributor
43 shall ensure that such medical marijuana meets the packaging and labeling

1 requirements established by rules and regulations adopted by the secretary
2 of revenue.

3 (c) A distributor shall not employ an individual who:

4 (1) Does not hold a current, valid employee license issued pursuant to
5 section 25, and amendments thereto; and

6 (2) has not completed the training as required by the secretary of
7 revenue in rules and regulations.

8 (d) This section shall take effect on and after July 1, 2023.

9 New Sec. 24. (a) A laboratory licensee may:

10 (1) Obtain medical marijuana from one or more licensed cultivators,
11 processors or retail dispensaries; and

12 (2) conduct medical marijuana testing in accordance with rules and
13 regulations adopted by the secretary of revenue.

14 (b) When testing medical marijuana, a licensed laboratory shall:

15 (1) Test the marijuana for potency, homogeneity and contamination;
16 and

17 (2) prepare and submit a report of the test results to the licensee
18 requesting such testing.

19 (c) A laboratory shall not employ an individual who:

20 (1) Does not hold a current, valid employee license issued pursuant to
21 section 25, and amendments thereto; and

22 (2) has not completed the training as required by the secretary of
23 revenue in rules and regulations.

24 (d) This section shall take effect on and after July 1, 2023.

25 New Sec. 25. (a) Any applicant that seeks to dispense at retail
26 medical marijuana shall submit an application for a retail dispensary
27 license in such form and manner as prescribed by the director of alcoholic
28 beverage control. A separate license application shall be submitted for each
29 location to be operated by the licensee.

30 (b) The director shall issue a license to an applicant if:

31 (1) The criminal history record check conducted pursuant to section
32 37, and amendments thereto, with respect to the applicant demonstrates the
33 following:

34 (A) Subject to subparagraph (B), that the applicant subject to the
35 criminal history record check requirement has not been convicted of or
36 pleaded guilty to any of the disqualifying offenses as specified in rules and
37 regulations adopted by the secretary of revenue; or

38 (B) that the disqualifying offense such applicant was convicted of or
39 pleaded guilty to is one of the offenses specified in rules and regulations as
40 one that will not disqualify the applicant if the applicant was convicted of
41 or pleaded guilty to the offense more than five years prior to the date the
42 application for licensure is submitted;

43 (2) the applicant demonstrates that such applicant does not have an

1 ownership or investment interest in or compensation arrangement with a
2 laboratory licensed under section 20, and amendments thereto, and is not
3 an applicant for such license;

4 (3) the applicant demonstrates that such applicant does not share any
5 corporate officers or employees with a laboratory licensed under section
6 20, and amendments thereto, and is not an applicant for such license;

7 (4) the applicant demonstrates that such applicant will not violate the
8 provisions of section 36, and amendments thereto;

9 (5) the applicant has submitted a tax clearance certificate issued by
10 the department of revenue; and

11 (6) the applicant meets all other licensure eligibility conditions
12 established in rules and regulations adopted by the secretary and has paid
13 all required fees.

14 (c) Each associated, key and support employee of a licensed retail
15 dispensary, cultivator, processor, distributor or laboratory shall submit an
16 application for an employee license for such employee in such form and
17 manner as prescribed by the director. A separate license application shall
18 be submitted for each employee. The director shall issue a license to an
19 applicant if all of the following conditions are met:

20 (1) The criminal history record check conducted pursuant to section
21 37, and amendments thereto, with respect to the applicant demonstrates the
22 following:

23 (A) Subject to subparagraph (B), that the individual subject to the
24 criminal history record check requirement has not been convicted of or
25 pleaded guilty to any of the disqualifying offenses as specified in rules and
26 regulations adopted by the secretary of revenue; or

27 (B) that the disqualifying offense such individual was convicted of or
28 pleaded guilty to is one of the offenses specified in rules and regulations as
29 one that will not disqualify the applicant if the applicant was convicted of
30 or pleaded guilty to the offense more than five years prior to the date the
31 application for licensure is submitted; and

32 (2) the applicant meets all other licensure eligibility conditions
33 established in rules and regulations adopted by the secretary and has paid
34 all required fees.

35 (d) A license shall be valid for a period of one year from the date such
36 license is issued and may be renewed by submitting a license renewal
37 application and paying the required fee.

38 (e) This section shall take effect on and after July 1, 2023.

39 New Sec. 26. (a) A retail dispensary licensee may:

40 (1) Obtain medical marijuana from one or more licensed processors
41 or distributors; and

42 (2) dispense or sell medical marijuana in accordance with subsection
43 (b).

1 (b) When dispensing or selling medical marijuana, a retail dispensary
2 shall:

3 (1) Dispense or sell medical marijuana only to a person who shows a
4 current, valid identification card and only in accordance with a written
5 recommendation issued by a physician;

6 (2) report to the prescription monitoring program database the
7 information required by K.S.A. 65-1683, and amendments thereto; and

8 (3) label the package containing medical marijuana with the
9 following information:

10 (A) The name and address of the licensed processor that produced the
11 product and the retail dispensary;

12 (B) the name of the patient and caregiver, if any;

13 (C) the name of the physician who recommended treatment with
14 medical marijuana;

15 (D) the directions for use, if any, as recommended by the physician;

16 (E) a health warning as specified in rules and regulations adopted by
17 the secretary of health and environment;

18 (F) the date on which the medical marijuana was dispensed; and

19 (G) the quantity, strength, kind or form of medical marijuana
20 contained in the package.

21 (c) A retail dispensary shall employ only those individuals who hold a
22 current, valid employee license issued pursuant to section 25, and
23 amendments thereto, and who have completed the training requirements
24 established by rules and regulations adopted by the secretary of revenue.

25 (d) A retail dispensary shall not make public any information it
26 collects that identifies or could identify any specific patient.

27 (e) This section shall take effect on and after July 1, 2023.

28 New Sec. 27. (a) Only the following forms of medical marijuana may
29 be dispensed under the Kansas medical marijuana regulation act:

30 (1) Oils;

31 (2) tinctures;

32 (3) plant material;

33 (4) edibles;

34 (5) patches; or

35 (6) any other form approved by the secretary of revenue under section
36 34, and amendments thereto.

37 (b) The smoking, combustion or vaporization of medical marijuana is
38 prohibited.

39 (c) Any form or method of using medical marijuana that is considered
40 attractive to children is prohibited.

41 (d) Plant material shall have a tetrahydrocannabinol content of not
42 more than 35%.

43 (e) Extracts shall have a tetrahydrocannabinol content of not more

1 than 70%.

2 (f) No form of medical marijuana shall be dispensed from a vending
3 machine or through electronic commerce.

4 (g) This section shall take effect on and after July 1, 2023.

5 New Sec. 28. (a) Any person may submit a petition to the director of
6 alcoholic beverage control requesting that a form or method of using
7 medical marijuana be approved for the purposes of section 27, and
8 amendments thereto. The petition shall be submitted in such form and
9 manner as prescribed by the director.

10 (b) Upon receipt of a petition, the director shall review such petition
11 to determine whether to recommend approval of the form or method of
12 using medical marijuana described in the petition. The director may
13 consolidate the review of petitions for the same or similar forms or
14 methods. The director shall consult with the medical marijuana advisory
15 committee and review any relevant scientific evidence when reviewing a
16 petition. The director shall recommend to the secretary of revenue whether
17 to approve or deny the proposed form or method of using medical
18 marijuana. The secretary shall approve or deny such proposed form or
19 method. The secretary's decision shall be final.

20 (c) The secretary shall not approve any petition that seeks approval of
21 a form or method of using medical marijuana that involves smoking,
22 combustion or vaporization.

23 (h) This section shall take effect on and after July 1, 2023.

24 New Sec. 29. (a) The fees for a cultivator license shall be set by rules
25 and regulations adopted by the secretary of revenue in an amount not to
26 exceed:

- 27 (1) (A) \$20,000 for a level I cultivator license application;
28 (B) \$180,000 for a level I cultivator license; and
29 (C) \$200,000 for a renewal of a level I cultivator license; and
30 (2) (A) \$2,000 for a level II cultivator license application;
31 (B) \$18,000 for a level II cultivator license; and
32 (C) \$20,000 for a renewal of a level II cultivator license.

33 (b) The fees for a laboratory license shall be set by rules and
34 regulations adopted by the secretary of revenue in an amount not to
35 exceed:

- 36 (1) \$2,000 for a laboratory license application;
37 (2) \$18,000 for a laboratory license; and
38 (3) \$20,000 for a renewal of a laboratory license.

39 (c) The fees for a processor license shall be set by rules and
40 regulations adopted by the secretary of revenue in an amount not to
41 exceed:

- 42 (1) \$10,000 for a processor license application;
43 (2) \$90,000 for a processor license; and

1 (3) \$100,000 for a renewal of a processor license.

2 (d) The fees for a distributor license shall be set by rules and
3 regulations adopted by the secretary of revenue in an amount not to
4 exceed:

5 (1) \$10,000 for a distributor license application;

6 (2) \$90,000 for a distributor license; and

7 (3) \$100,000 for a renewal of a distributor license.

8 (e) The fees for a retail dispensary license shall be set by rules and
9 regulations adopted by the secretary of revenue in an amount not to
10 exceed:

11 (1) \$5,000 for a retail dispensary license application;

12 (2) \$70,000 for a retail dispensary license and any renewal thereof;

13 (3) \$500 for each associated employee license application;

14 (4) \$250 for each key employee license application; and

15 (5) \$100 for each support employee license application.

16 (f) This section shall take effect on and after July 1, 2023.

17 New Sec. 30. The director of alcoholic beverage control may refuse
18 to issue or renew a license, or may revoke or suspend a license for any of
19 the following reasons:

20 (a) The applicant has failed to comply with any provision of the
21 Kansas medical marijuana regulation act or any rules and regulations
22 adopted thereunder;

23 (b) the applicant has falsified or misrepresented any information
24 submitted to the director in order to obtain a license;

25 (c) the applicant has failed to adhere to any acknowledgment,
26 verification or other representation made to the director when applying for
27 a license; or

28 (d) the applicant has failed to submit or disclose information
29 requested by the director.

30 (e) This section shall take effect on and after July 1, 2023.

31 New Sec. 31. (a) In addition to or in lieu of any other civil or criminal
32 penalty as provided by law, the director of alcoholic beverage control may
33 impose a civil penalty or suspend or revoke a license upon a finding that
34 the licensee committed a violation as provided in this section.

35 (b) (1) Upon a finding that a licensee has submitted fraudulent
36 information or otherwise falsified or misrepresented information required
37 to be submitted by such licensee, the director may impose a civil fine not
38 to exceed \$5,000 for a first offense and may suspend or revoke such
39 licensee's license for a second or subsequent offense.

40 (2) Upon a finding that a licensee has sold, transferred or otherwise
41 distributed medical marijuana in violation of this act, the director may
42 impose a civil fine not to exceed \$5,000 for a first offense and may
43 suspend or revoke such licensee's license for a second or subsequent

1 offense.

2 (c) If the director suspends, revokes or refuses to renew any license
3 issued pursuant to this act and determines that there is clear and
4 convincing evidence of a danger of immediate and serious harm to any
5 person, the director may place under seal all medical marijuana owned by
6 or in the possession, custody or control of the affected license holder.
7 Except as provided in this section, the director shall not dispose of the
8 sealed medical marijuana until a final order is issued authorizing such
9 disposition. During the pendency of an appeal from any order by the
10 director, a court may order the director to sell medical marijuana that is
11 perishable, and the proceeds of any such sale shall be deposited with the
12 court.

13 (d) This section shall take effect on and after July 1, 2023.

14 New Sec. 32. (a) There is hereby established the medical marijuana
15 business entity regulation fund in the state treasury. The director of
16 alcoholic beverage control shall administer the medical marijuana business
17 entity regulation fund and shall remit all moneys collected from the
18 payment of all fees and fines imposed by the director pursuant to the
19 Kansas medical marijuana regulation act and any other moneys received
20 by or on behalf of the director pursuant to such act to the state treasurer in
21 accordance with the provisions of K.S.A. 75-4215, and amendments
22 thereto. Upon receipt of each such remittance, the state treasurer shall
23 deposit the entire amount in the state treasury to the credit of the medical
24 marijuana business entity regulation fund. Moneys credited to the medical
25 marijuana business entity regulation fund shall only be expended or
26 transferred as provided in this section. Expenditures from such fund shall
27 be made in accordance with appropriation acts upon warrants of the
28 director of accounts and reports issued pursuant to vouchers approved by
29 the director or the director's designee.

30 (b) Moneys in the medical marijuana business entity regulation fund
31 shall be used for:

32 (1) The payment or reimbursement of costs related to the regulation
33 and enforcement of the cultivation, possession, processing, testing and sale
34 of medical marijuana by the division of alcoholic beverage control; and

35 (2) to cover the cost of medicaid expansion.

36 (c) This section shall take effect on and after July 1, 2023.

37 New Sec. 33. (a) On or before January 1, 2023, the secretary of
38 revenue shall adopt rules and regulations to administer the Kansas medical
39 marijuana regulation program and implement and enforce the provisions of
40 the Kansas medical marijuana regulation act. Such rules and regulations
41 shall:

42 (1) Establish application procedures and fees for licenses issued
43 under sections 20 and 25, and amendments thereto;

1 (2) specify the following:

2 (A) The conditions for eligibility for licensure;

3 (B) subject to subparagraph (C), the criminal convictions that shall
4 disqualify an applicant from licensure; and

5 (C) the criminal convictions that shall not disqualify an applicant
6 from licensure if the applicant was convicted of or pleaded guilty to the
7 offense more than five years prior to the date the application for licensure
8 is filed;

9 (3) establish the number of licenses that will be permitted at any one
10 time in accordance with sections 21 through 25, and amendments thereto;

11 (4) establish a license renewal schedule, renewal procedures and
12 renewal fees;

13 (5) establish standards and procedures for the testing of medical
14 marijuana by a licensed laboratory; and

15 (6) establish training requirements for employees of retail
16 dispensaries.

17 (b) The director shall propose such rules and regulations as necessary
18 to carry out the intent and purposes of this act. After the public hearing on
19 a proposed rule and regulation has been held pursuant to the rules and
20 regulations filing act, the director shall submit the proposed rule and
21 regulation to the secretary of revenue who, if the secretary approves it,
22 shall adopt the rule and regulation.

23 (c) When adopting rules and regulations under this section, the
24 secretary shall consider standards and procedures that have been found to
25 be best practices relative to the use and regulation of medical marijuana.

26 New Sec. 34. (a) The director of alcoholic beverage control shall
27 establish and maintain an electronic database to monitor medical
28 marijuana from its seed source through its cultivation, testing, processing,
29 distribution and dispensing. The director may contract with a separate
30 entity to establish and maintain all or any portion of the electronic
31 database on behalf of the division of alcoholic beverage control.

32 (b) The electronic database shall allow for information regarding
33 medical marijuana to be updated instantaneously. Any licensed cultivator,
34 laboratory, processor, distributor or retail dispensary shall submit such
35 information to the director as the director determines is necessary for
36 maintaining the electronic database.

37 (c) The director, any employee of the division, any entity under
38 contract with the director and any employee or agent thereof shall not
39 make public any information reported to or collected by the director under
40 this section that identifies or could identify any specific patient. Such
41 information shall be kept confidential to protect the privacy of the patient.
42 The provisions of this subsection shall expire on July 1, 2026, unless the
43 legislature reviews and reenacts such provisions in accordance with K.S.A.

1 45-229, and amendments thereto, prior to July 1, 2026.

2 (d) This section shall take effect on and after July 1, 2023.

3 New Sec. 35. (a) The director of alcoholic beverage control may, in
4 cooperation with the state treasurer, establish a closed-loop payment
5 processing system whereby the state treasurer creates accounts to be used
6 only by registered patients and caregivers at licensed retail dispensaries
7 and all licensed cultivators, laboratories, processors and distributors. The
8 system may include record-keeping and accounting functions that identify
9 all parties in transactions involving the purchase and sale of medical
10 marijuana. If established, such system shall be designed to prevent:

11 (1) Revenue from the sale of marijuana going to criminal enterprises,
12 gangs and cartels;

13 (2) the diversion of marijuana from a state where it is legal in some
14 form under that state's law to another state;

15 (3) the distribution of marijuana to minors; and

16 (4) the use of state-authorized marijuana activity as a cover or pretext
17 for the trafficking of other illegal drugs or for other illegal activity.

18 (b) The information recorded by the system shall be fully accessible
19 to the department of health and environment, the director and all state and
20 federal law enforcement agencies, including the United States department
21 of the treasury's financial crimes enforcement network.

22 (c) This section shall take effect on and after July 1, 2023.

23 New Sec. 36. (a) Except as provided in subsections (b) and (c), no
24 licensed cultivator, laboratory, processor, distributor or retail dispensary
25 shall be located within 1,000 feet of the boundaries of a parcel of real
26 estate having situated on it a school, religious organization, public library
27 or public park. If the relocation of a licensed cultivator, laboratory,
28 processor, distributor or retail dispensary results in such licensee being
29 located within 1,000 feet of the boundaries of a parcel of real estate having
30 situated on it a school, religious organization, public library or public park,
31 the director shall revoke the license such agency previously issued to such
32 cultivator, laboratory, processor, distributor or retail dispensary.

33 (b) In the director's discretion, the director may not revoke the license
34 of a cultivator, laboratory, processor, distributor or retail dispensary if such
35 licensee existed at a location prior to the establishment of a school,
36 religious organization, public library or public park within 1,000 feet of
37 such licensee.

38 (c) This section shall not apply to research related to marijuana
39 conducted at a postsecondary educational institution, academic medical
40 center or private research and development organization as part of a
41 research protocol approved by an institutional review board or equivalent
42 entity.

43 (d) As used in this section:

1 (1) "Public library" means any library established pursuant to article
2 12 of chapter 12 of the Kansas Statutes Annotated, and amendments
3 thereto, and any other library that serves the general public and is funded
4 in whole, or in part, from moneys derived from tax levies;

5 (2) "public park" means any park or other outdoor recreational area or
6 facility, including, but not limited to, parks, open spaces, trails, swimming
7 pools, playgrounds and playing courts and fields, established by the state
8 or any political subdivision thereof;

9 (3) "religious organization" means any organization, church, body of
10 communicants or group, gathered in common membership for mutual
11 support and edification in piety, worship and religious observances, or a
12 society of individuals united for religious purposes at a definite place and
13 such religious organization maintains an established place of worship
14 within this state and has a regular schedule of services or meetings at least
15 on a weekly basis and has been determined to be organized and created as
16 a bona fide religious organization; and

17 (4) "school" means any public or private educational institution,
18 including, but not limited to, any college, university, community college,
19 technical college, high school, middle school, elementary school, trade
20 school, vocational school or other professional school providing training
21 or education.

22 (e) This section shall take effect on and after July 1, 2023.

23 New Sec. 37. (a) Each applicant for a cultivator license, laboratory
24 license, processor license, distributor license or retail dispensary license
25 shall require any owner, director, officer and any employee or agent of
26 such applicant to be fingerprinted and to submit to a state and national
27 criminal history record check. The director of alcoholic beverage control is
28 authorized to submit the fingerprints to the Kansas bureau of investigation
29 and the federal bureau of investigation for a state and national criminal
30 history record check. The director shall use the information obtained from
31 fingerprinting and the state and national criminal history record check for
32 purposes of verifying the identification of the applicant and for making a
33 determination of the qualifications of the applicant for licensure. The
34 Kansas bureau of investigation may charge a reasonable fee to the
35 applicant for fingerprinting and conducting a criminal history record
36 check.

37 (b) This section shall take effect on and after July 1, 2023.

38 New Sec. 38. (a) A financial institution that provides financial
39 services to any licensed cultivator, laboratory, processor, distributor or
40 retail dispensary shall be exempt from any criminal law of this state, an
41 element of which may be proven by substantiating that a person provides
42 financial services to a person who possesses, delivers or manufactures
43 marijuana or marijuana-derived products, including any of the offenses

1 specified in article 53 or 57 of chapter 21 of the Kansas Statutes
2 Annotated, and amendments thereto, if the cultivator, laboratory,
3 processor, distributor or retail dispensary is in compliance with the
4 provisions of this act and all applicable tax laws of this state.

5 (b) (1) Upon the request of a financial institution, the director of
6 alcoholic beverage control shall provide to the financial institution the
7 following information:

8 (A) Whether a person with whom the financial institution is seeking
9 to do business is a licensed cultivator, laboratory, processor, distributor or
10 retail dispensary;

11 (B) the name of any other business or individual affiliated with the
12 person;

13 (C) an unredacted copy of such person's application for a license, and
14 any supporting documentation, that was submitted by the person;

15 (D) if applicable, information relating to sales and volume of product
16 sold by the person;

17 (E) whether the person is in compliance with the provisions of this
18 act; and

19 (F) any past or pending violations of the Kansas medical marijuana
20 regulation act or any rules and regulations adopted thereunder committed
21 by such person, and any penalty imposed on the person for such violation.

22 (2) The director may charge a financial institution a reasonable fee to
23 cover the administrative cost of providing information requested under this
24 section.

25 (c) Information received by a financial institution under subsection
26 (b) shall be confidential. Except as otherwise permitted by any other state
27 or federal law, a financial institution shall not make the information
28 available to any person other than the customer to whom the information
29 applies and any trustee, conservator, guardian, personal representative or
30 agent of that customer.

31 (d) As used in this section:

32 (1) "Financial institution" means any bank, trust company, savings
33 bank, credit union or savings and loan association or any other financial
34 institution with an office in Kansas regulated by the state of Kansas, any
35 agency of the United States or another state; and

36 (2) "financial services" means services that a financial institution is
37 authorized to provide under chapter 9 or article 22 of chapter 17 of the
38 Kansas Statutes Annotated, and amendments thereto, as applicable.

39 (e) This section shall take effect on and after July 1, 2023.

40 New Sec. 39. (a) Nothing in this act authorizes the director of
41 alcoholic beverage control to oversee or limit research conducted at a
42 postsecondary educational institution, academic medical center or private
43 research and development organization that is related to marijuana and is

1 approved by an agency, board, center, department or institute of the United
2 States government, including any of the following:

- 3 (1) The agency for health care research and quality;
- 4 (2) the national institutes of health;
- 5 (3) the national academy of sciences;
- 6 (4) the centers for medicare and medicaid services;
- 7 (5) the United States department of defense;
- 8 (6) the centers for disease control and prevention;
- 9 (7) the United States department of veterans affairs;
- 10 (8) the drug enforcement administration;
- 11 (9) the food and drug administration; and
- 12 (10) any board recognized by the national institutes of health for the
13 purpose of evaluating the medical value of health care services.

14 (b) This section shall take effect on and after July 1, 2023.

15 New Sec. 40. (a) The provisions of the Kansas medical marijuana
16 regulation act are hereby declared to be severable. If any part or provision
17 of the Kansas medical marijuana regulation act is held to be void, invalid
18 or unconstitutional, such part or provision shall not affect or impair any of
19 the remaining parts or provisions of the Kansas medical marijuana
20 regulation act, and any such remaining provisions shall continue in full
21 force and effect.

22 (b) This section shall take effect on and after July 1, 2023.

23 New Sec. 41. (a) It shall be unlawful to store or otherwise leave
24 medical marijuana where it is readily accessible to a child under the age of
25 18 years.

26 (b) Violation of this section is a class A person misdemeanor.

27 (c) The provisions of this section shall not apply to a person who
28 stores or otherwise leaves medical marijuana where it is readily accessible
29 to a child under 18 years of age if:

30 (1) Such child is a patient registered pursuant to section 8, and
31 amendments thereto; and

32 (2) such medical marijuana is not readily accessible to any other child
33 under 18 years of age.

34 (d) As used in this section:

35 (1) "Medical marijuana" means the same as defined in section 2, and
36 amendments thereto; and

37 (2) "readily accessible" means the medical marijuana is not stored in
38 a locked container that restricts entry to such container to individuals who
39 are 18 years of age or older or who are registered patients pursuant to
40 section 8, and amendments thereto.

41 (e) This section shall be a part of and supplemental to the Kansas
42 criminal code.

43 (f) This section shall take effect on and after July 1, 2023.

1 New Sec. 42. (a) Subject to the provisions of K.S.A. 44-1018, and
2 amendments thereto, it shall be unlawful for any person to:

3 (1) Refuse to sell or rent after the making of a bona fide offer, to fail
4 to transmit a bona fide offer or refuse to negotiate in good faith for the sale
5 or rental of, or otherwise make unavailable or deny, real property to any
6 person because such person consumes medical marijuana in accordance
7 with section 10, and amendments thereto;

8 (2) discriminate against any person in the terms, conditions or
9 privileges of sale or rental of real property, or in the provision of services
10 or facilities in connection therewith, because such person consumes
11 medical marijuana in accordance with section 10, and amendments
12 thereto; and

13 (3) discriminate against any person in such person's use or occupancy
14 of real property because such person associates with another person who
15 consumes medical marijuana in accordance with section 10, and
16 amendments thereto.

17 (b) (1) It shall be unlawful for any person or other entity whose
18 business includes engaging in real estate-related transactions to
19 discriminate against any person in making available such a transaction, or
20 in the terms or conditions of such a transaction, because such person or
21 any person associated with such person in connection with any real estate-
22 related transaction consumes medical marijuana in accordance with
23 section 10, and amendments thereto.

24 (2) Nothing in this subsection prohibits a person engaged in the
25 business of furnishing appraisals of real property to take into consideration
26 factors other than an individual's consumption of medical marijuana in
27 accordance with section 10, and amendments thereto.

28 (3) As used in this subsection, "real estate-related transaction" means
29 the same as defined in K.S.A. 44-1017, and amendments thereto.

30 (c) It shall be unlawful to coerce, intimidate, threaten or interfere with
31 any person in the exercise or enjoyment of, or on account of such person's
32 having exercised or enjoyed, or on account of such person's having aided
33 or encouraged any other person in the exercise or enjoyment of, any right
34 granted or protected by subsection (a) or (b).

35 (d) Nothing in this section shall be construed to prohibit a person
36 from taking any action necessary to procure or retain any monetary benefit
37 provided under federal law, or any rules and regulations adopted
38 thereunder or to obtain or maintain any license, certificate, registration or
39 other legal status issued or bestowed under federal law or any rules and
40 regulations adopted thereunder.

41 (e) This section shall be a part of and supplemental to the Kansas act
42 against discrimination.

43 (f) This section shall take effect on and after July 1, 2023.

1 New Sec. 43. (a) A covered entity, solely on the basis that an
2 individual consumes medical marijuana in accordance with section 10, and
3 amendments thereto, shall not:

4 (1) Consider such individual ineligible to receive an anatomical gift
5 or organ transplant;

6 (2) deny medical and other services related to organ transplantation,
7 including evaluation, surgery, counseling and post-transplantation
8 treatment and services;

9 (3) refuse to refer the individual to a transplant center or a related
10 specialist for the purpose of evaluation or receipt of an organ transplant;

11 (4) refuse to place such individual on an organ transplant waiting list;
12 or

13 (5) place such individual at a lower-priority position on an organ
14 transplant waiting list than the position at which such individual would
15 have been placed if not for such individual's consumption of medical
16 marijuana.

17 (b) A covered entity may take into account an individual's
18 consumption of medical marijuana when making treatment or coverage
19 recommendations or decisions, solely to the extent that such consumption
20 has been found by a physician, following an individualized evaluation of
21 the individual, to be medically significant to the provision of the
22 anatomical gift.

23 (c) Nothing in this section shall be construed to require a covered
24 entity to make a referral or recommendation for or perform a medically
25 inappropriate organ transplant.

26 (d) As used in this section, the terms "anatomical gift," "covered
27 entity" and "organ transplant" mean the same as those terms are defined in
28 K.S.A. 65-3276, and amendments thereto.

29 (e) This section shall take effect on and after July 1, 2023.

30 New Sec. 44. (a) No order shall be issued pursuant to K.S.A. 2020
31 Supp. 38-2242, 38-2243 or 38-2244, and amendments thereto, if the sole
32 basis for the threat to the child's safety or welfare is that the child resides
33 with an individual who consumes medical marijuana in accordance with
34 section 10, and amendments thereto, or the child consumes medical
35 marijuana in accordance with section 10, and amendments thereto.

36 (b) The provisions of this section shall be a part of and supplemental
37 to the revised Kansas code for care of children.

38 (c) This section shall take effect on and after July 1, 2023.

39 New Sec. 45. (a) Notwithstanding the provisions of K.S.A. 65-2836,
40 and amendments thereto, the board shall not revoke, suspend or limit a
41 physician's license, publicly censure a physician or place a physician's
42 license under probationary conditions solely because:

43 (1) A physician has:

1 (A) Advised a patient about the possible benefits and risks of using
2 medical marijuana;

3 (B) advised the patient that using medical marijuana may mitigate the
4 patient's symptoms; or

5 (C) submitted an application on behalf of a patient or caregiver for
6 registration as a patient or caregiver under section 8, and amendments
7 thereto; or

8 (2) the physician is a registered patient or caregiver pursuant to
9 section 8, and amendments thereto, possesses or has possessed or uses or
10 has used medical marijuana in accordance with this act.

11 (b) This section shall take effect on and after July 1, 2023.

12 New Sec. 46. (a) Notwithstanding the provisions of K.S.A. 65-28a05,
13 and amendments thereto, the board shall not revoke, suspend or limit a
14 physician assistant's license, publicly or privately censure a physician
15 assistant or deny an application for a license or for reinstatement of a
16 license upon any of the following:

17 (1) The physician assistant has:

18 (A) Advised a patient about the possible benefits and risks of using
19 medical marijuana; or

20 (B) advised the patient that using medical marijuana may mitigate the
21 patient's symptoms; or

22 (2) the physician assistant is a registered patient or caregiver pursuant
23 to section 8, and amendments thereto, possesses or has possessed or uses
24 or has used medical marijuana in accordance with this act.

25 (c) This section shall take effect on and after July 1, 2023.

26 New Sec. 47. (a) Notwithstanding any other provision of law, any
27 person, board, commission or similar body that determines the
28 qualifications of individuals for licensure, certification or registration shall
29 not disqualify an individual from licensure, certification or registration
30 solely because such individual consumes medical marijuana in
31 accordance with section 10, and amendments thereto.

32 (b) The provisions of this section shall not apply to the:

33 (1) Kansas commission on peace officers' standards and training;

34 (2) Kansas highway patrol;

35 (3) office of the attorney general;

36 (4) department of health and environment; or

37 (5) division of alcoholic beverage control.

38 (c) This section shall take effect on and after July 1, 2023.

39 New Sec. 48. (a) Sections 48 through 60 and 63 through 66, and
40 amendments thereto, shall be known and may be cited as the Kansas
41 innovative solutions for affordable healthcare act.

42 (b) The legislature expressly consents to expand eligibility for receipt
43 of benefits under the Kansas program of medical assistance, as required by

1 K.S.A. 39-709(e)(2), and amendments thereto, by the passage and
2 enactment of the act, subject to all requirements and limitations established
3 in the act.

4 (c) The secretary of health and environment shall adopt rules and
5 regulations as necessary to implement and administer the act.

6 (d) As used in sections 48 through 60 and 63 through 66, and
7 amendments thereto:

8 (1) "138% of the federal poverty level," or words of like effect,
9 includes a 5% income disregard permitted under the federal patient
10 protection and affordable care act.

11 (2) "Act" means the Kansas innovative solutions for affordable
12 healthcare act.

13 (e) This section shall take effect on and after July 1, 2023.

14 New Sec. 49. (a) The secretary of health and environment shall
15 submit to the United States centers for medicare and medicaid services any
16 state plan amendment, waiver request or other approval request necessary
17 to implement the act. At least 10 calendar days prior to submission of any
18 such approval request to the United States centers for medicare and
19 medicaid services, the secretary of health and environment shall submit
20 such approval request application to the state finance council.

21 (b) For purposes of eligibility determinations under the Kansas
22 program of medical assistance on and after January 1, 2022, medical
23 assistance shall be granted to any adult under 65 years of age who is not
24 pregnant and whose income meets the limitation established in subsection
25 (c), as permitted under the provisions of 42 U.S.C. § 1396a, as it exists on
26 the effective date of the act, and subject to a 90% federal medical
27 assistance percentage and all requirements and limitations established in
28 the act.

29 (c) The secretary of health and environment shall submit to the
30 United States centers for medicare and medicaid services any approval
31 request necessary to provide medical assistance eligibility to individuals
32 described in subsection (b) whose modified adjusted gross income does
33 not exceed 138% of the federal poverty level.

34 (d) This section shall take effect on and after July 1, 2023.

35 New Sec. 50. (a) The secretary of health and environment shall refer
36 each non-disabled adult applying for or receiving coverage under the act
37 who is unemployed or working less than 20 hours per week to the
38 Kansasworks program administered by the department of commerce. The
39 secretary of commerce shall coordinate with the secretary of health and
40 environment to certify to the secretary of health and environment each
41 covered individual's compliance with this section. The secretary of
42 commerce shall maintain a unique identifier for Kansasworks participants
43 who are covered individuals under the act to track employment outcomes

1 and progress toward employment.

2 (b) The secretary of health and environment shall evaluate each new
3 applicant for coverage under the act for education status, employment
4 status and any factors impacting the applicant's employment status, if less
5 than full-time employment, and shall require each applicant to
6 acknowledge the referral required under subsection (a). Such evaluation
7 shall be a prerequisite for coverage under the act.

8 (c) A full-time student enrolled in a postsecondary educational
9 institution or technical college, as defined by K.S.A. 74-3201b, and
10 amendments thereto, shall be exempt from the referral required under
11 subsection (a) for each year the student is enrolled in such educational
12 setting.

13 (d) The secretary of health and environment, in coordination with the
14 secretary of commerce, shall report annually to the legislature on or before
15 the first day of each regular session of the legislature regarding the
16 employment outcomes of covered individuals under the act.

17 (e) This section shall take effect on and after July 1, 2023.

18 New Sec. 51. (a) (1) Except to the extent prohibited by 42 U.S.C. §
19 1396o-1(a)(2) and (b)(3), as such provisions exist on the effective date of
20 this act, the department of health and environment shall charge to each
21 covered individual described in section 49(b), and amendments thereto, a
22 monthly fee not to exceed \$25 per individual, but not to exceed a
23 maximum of \$100 per month per family household, as a condition of
24 participation in the program. The department may grant a hardship
25 exemption from payment of the monthly fee, as determined by the
26 secretary of health and environment.

27 (2) The department of health and environment shall remit all moneys
28 collected or received for monthly fees charged under this subsection,
29 except for the federal share of such fees required to be remitted to the
30 United States centers for medicare and medicaid services, to the state
31 treasurer in accordance with K.S.A. 75-4215, and amendments thereto.
32 Upon receipt of each such remittance, the state treasurer shall deposit the
33 entire amount remitted into the state treasury to the credit of the state
34 general fund.

35 (b) The department of health and environment shall utilize the debt
36 collection procedures authorized by K.S.A. 75-6201 et seq., and
37 amendments thereto, for a covered individual under the act who is
38 delinquent by 60 days or more in making a monthly fee payment.

39 (c) The secretary of health and environment may require each
40 managed care organization providing services under the act to collect the
41 monthly fee charged under subsection (a) in lieu of the department.

42 (d) In January of each year, the secretary of health and environment
43 shall submit to the house of representatives standing committee on health

1 and human services and the senate standing committee on public health
2 and welfare, or any successor committees, an accounts receivable report
3 for monthly fees collected under this section during the preceding calendar
4 year.

5 (e) This section shall take effect on and after July 1, 2023.

6 New Sec. 52. (a) The secretary of health and environment may
7 establish a health insurance coverage premium assistance program for
8 individuals who meet the following requirements:

9 (1) The individual has an annual income that is 100% or greater than,
10 but does not exceed 138% of, the federal poverty level, based on the
11 modified adjusted gross income provisions set forth in section 2001(a)(1)
12 of the federal patient protection and affordable care act; and

13 (2) the individual is eligible for health insurance coverage through an
14 employer but cannot afford the health insurance coverage premiums, as
15 determined by the secretary of health and environment.

16 (b) A program established under this section shall:

17 (1) Contain eligibility requirements that are the same as in sections 49
18 and 50, and amendments thereto; and

19 (2) provide that an individual's payment for a health insurance
20 coverage premium may not exceed 2% of the individual's modified
21 adjusted gross income, not to exceed 2% of the household's modified
22 adjusted gross income in the aggregate with any premium charged to any
23 other household member participating in the premium assistance program.

24 (c) This section shall take effect on and after July 1, 2023.

25 New Sec. 53. (a) Except to the extent prohibited by 42 U.S.C. §
26 1396u-2(a)(2), as it exists on the effective date of this act, the secretary of
27 health and environment shall administer medical assistance benefits using
28 a managed care delivery system using organizations subject to assessment
29 of the privilege fee under K.S.A. 40-3213, and amendments thereto. If the
30 United States centers for medicare and medicaid services determines that
31 the assessment of a privilege fee provided in K.S.A. 40-3213, and
32 amendments thereto, is unlawful or otherwise invalid, then the secretary of
33 health and environment shall administer state medicaid services using a
34 managed care delivery system.

35 (b) In awarding a contract for an entity to administer state medicaid
36 services using a managed care delivery system, the secretary of health and
37 environment shall:

38 (1) Not provide favorable or unfavorable treatment in awarding a
39 contract based on an entity's for-profit or not-for-profit tax status;

40 (2) give preference in awarding a contract to an entity that provides
41 health insurance coverage plans on the health benefit exchange in Kansas
42 established under the federal patient protection and affordable care act; and

43 (3) require that any entity administering state medicaid services

1 provide tiered benefit plans with enhanced benefits for covered individuals
2 who demonstrate healthy behaviors, as determined by the secretary of
3 health and environment, to be implemented on or before July 1, 2024.

4 (c) This section shall take effect on and after July 1, 2023.

5 New Sec. 54. (a) If the federal medical assistance percentage for
6 coverage of medical assistance participants described in section 1902(a)
7 (10)(A)(i)(VIII) of the federal social security act, 42 U.S.C. § 1396a, as it
8 exists on the effective date of this section, becomes lower than 90%, then
9 the secretary of health and environment shall terminate coverage under the
10 act over a 12-month period, beginning on the first day that the federal
11 medical assistance percentage becomes lower than 90%. No individual
12 shall be newly enrolled for coverage under the act after such date.

13 (b) This section shall take effect on and after July 1, 2023.

14 New Sec. 55. (a) Section 54, and amendments thereto, shall be
15 nonseverable from the remainder of the act. If the provisions of section 54,
16 and amendments thereto, are not approved by the United States centers for
17 medicare and medicaid services, then the act shall be null and void and
18 shall have no force and effect.

19 (b) A denial of federal approval or federal financial participation that
20 applies to any provision of the act not enumerated in subsection (a) shall
21 not prohibit the secretary of health and environment from implementing
22 any other provision of the act.

23 (c) This section shall take effect on and after July 1, 2023.

24 New Sec. 56. (a) All moneys collected or received by the secretary of
25 health and environment for privilege fees collected pursuant to K.S.A. 40-
26 3213, and amendments thereto, connected to covered individuals under the
27 act shall be remitted to the state treasurer in accordance with the
28 provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of
29 each such remittance, the state treasurer shall deposit the entire amount in
30 the state treasury to the credit of the medicaid expansion privilege fee
31 fund.

32 (b) There is hereby created in the state treasury the medicaid
33 expansion privilege fee fund as a reappropriating fund. Moneys in the fund
34 shall be expended for the purpose of medicaid medical assistance
35 payments for covered individuals under the act. All expenditures from the
36 fund shall be made in accordance with appropriation acts upon warrants of
37 the director of accounts and reports issued pursuant to vouchers approved
38 by the secretary of health and environment or the secretary's designee.

39 (c) The medicaid expansion privilege fee fund shall be used for the
40 purposes set forth in the act and for no other governmental purposes. It is
41 the intent of the legislature that the fund and the moneys deposited into the
42 fund shall remain intact and inviolate for the purposes set forth in the act,
43 and moneys in the fund shall not be subject to the provisions of K.S.A. 75-

1 3722, 75-3725a and 75-3726a, and amendments thereto.

2 (d) On or before the 10th day of each month, the director of accounts
3 and reports shall transfer from the state general fund to the medicaid
4 expansion privilege fee fund interest earnings based on:

5 (1) The average daily balance of moneys in the fund for the preceding
6 month; and

7 (2) the net earnings rate of the pooled money investment portfolio for
8 the preceding month.

9 (e) On or before January 9, 2024, and on or before the first day of the
10 regular session of the legislature each year thereafter, the secretary of
11 health and environment shall prepare and deliver a report to the legislature
12 that summarizes all expenditures from the medicaid expansion privilege
13 fee fund, fund revenues and recommendations regarding the adequacy of
14 the fund to support necessary program expenditures.

15 (f) This section shall take effect on and after July 1, 2023.

16 New Sec. 57. (a) On or before January 9, 2024, and on or before the
17 first day of the regular session of the legislature each year thereafter, the
18 secretary of health and environment shall prepare and deliver a report to
19 the legislature that summarizes the cost savings achieved by the state from
20 the movement of covered individuals from the KanCare program to
21 coverage under the act, including, but not limited to, the MediKan
22 program, the medically needy spend-down program and the breast and
23 cervical cancer program.

24 (b) State cost savings shall be determined by calculating the cost of
25 providing services to covered individuals in the KanCare program less the
26 cost of services provided to covered individuals under the act.

27 (c) This section shall take effect on and after July 1, 2023.

28 New Sec. 58. (a) The secretary of corrections shall coordinate with
29 county sheriffs who request assistance to assist in facilitating medicaid
30 coverage for any state or county inmate incarcerated in a Kansas prison or
31 jail during any time period that the inmate is eligible for coverage.

32 (b) On or before January 9, 2024, and on or before the first day of the
33 regular session of the legislature each year thereafter, the secretary of
34 corrections shall prepare and deliver a report to the legislature that
35 identifies cost savings to the state from the use of the act to provide
36 medicaid reimbursement for inmate inpatient hospitalization.

37 (c) This section shall take effect on and after July 1, 2023.

38 New Sec. 59. (a) On or before February 15 of each year, the secretary
39 of health and environment shall present a report to the house of
40 representatives standing committee on appropriations and the senate
41 standing committee on ways and means, or any successor committees, that
42 summarizes the costs of the act and the cost savings and additional
43 revenues generated during the preceding fiscal year.

1 (b) This section shall take effect on and after July 1, 2023.

2 New Sec. 60. (a) The legislative post audit committee shall direct the
3 legislative division of post audit to conduct an audit of the direct economic
4 impact of the implementation of the act on the state general fund during
5 the first two fiscal years following implementation of the act. Such audit
6 shall be submitted to the legislature on or before the first day of the regular
7 legislative session immediately following the end of the audited time
8 period.

9 (b) This section shall take effect on and after July 1, 2023.

10 New Sec. 61. (a) The department of health and environment shall
11 remit all moneys received by the department of health and environment
12 from drug rebates associated with medical assistance enrollees to the state
13 treasurer in accordance with the provisions of K.S.A. 75-4215, and
14 amendments thereto. Upon receipt of each such remittance, the state
15 treasurer shall deposit the entire amount into the state treasury to the credit
16 of the state general fund.

17 (b) The department of health and environment shall certify the
18 amount of moneys received by such agency from drug rebates associated
19 with medical assistance enrollees on a monthly basis and shall transmit
20 each such certification to the director of legislative research and the
21 director of the budget.

22 (c) Upon receipt of each such certification, the director of legislative
23 research and the director of the budget shall include such certified amount
24 on any monthly report prepared by the legislative research department or
25 the division of the budget that details state general fund receipts as a
26 separate item entitled "drug rebates" under a category of other revenue
27 sources.

28 (d) This section shall take effect on and after July 1, 2023.

29 New Sec. 62. (a) There is hereby established in the state treasury the
30 federal medical assistance percentage stabilization fund to be administered
31 by the secretary of health and environment. All expenditures from the
32 federal medical assistance percentage stabilization fund shall be made in
33 accordance with appropriation acts upon warrants of the director of
34 accounts and reports issued pursuant to vouchers approved by the
35 secretary of health and environment or the secretary's designee.

36 (b) Notwithstanding the provisions of any other statute, the attorney
37 general is hereby authorized and directed to remit to the state treasurer, in
38 accordance with the provisions of K.S.A. 75-4215, and amendments
39 thereto, any moneys that are recovered by the attorney general on behalf of
40 the state in the civil action Texas v. Rettig, No. 18-10545 (5th Cir.), or any
41 other civil action to which the state of Kansas is a party and in which the
42 attorney general recovers moneys on behalf of the state due to a
43 determination that imposition of the health insurance provider fee under

1 the federal patient protection and affordable care act, public law 111-152,
2 is invalid. Upon receipt of each such remittance, the state treasurer shall
3 deposit the entire amount into the state treasury to the credit of the federal
4 medical assistance percentage stabilization fund.

5 (c) Beginning in fiscal year 2023, all transfers from the federal
6 medical assistance percentage stabilization fund shall be used during any
7 fiscal year to fund any additional title XIX costs incurred due to any
8 decrease to the federal medical assistance percentage for the state of
9 Kansas.

10 (d) Each fiscal year, on December 1 and June 30, beginning in fiscal
11 year 2024, the secretary shall determine and certify the estimated amount
12 of any reduced or increased title XIX costs incurred due to any increase or
13 decrease to the federal medical assistance percentage for the state of
14 Kansas in the current fiscal year. The secretary shall certify each such
15 amount to the director of accounts and reports and shall transmit a copy of
16 each such certification to the director of the budget and the director of
17 legislative research. Upon receipt of any such certification indicating
18 reduced costs, the director of accounts and reports shall transfer such
19 certified amount of moneys from the state general fund to the federal
20 medical assistance percentage stabilization fund. Upon receipt of any such
21 certification indicating increased costs, the director of accounts and reports
22 shall transfer such certified amount of moneys from the federal medical
23 assistance percentage stabilization fund to the state general fund.

24 (e) The federal medical assistance percentage stabilization fund and
25 any other moneys transferred pursuant to this section shall be used for the
26 purposes set forth in this section and for no other governmental purposes.
27 It is the intent of the legislature that the funds and the moneys deposited
28 into this fund shall remain intact and inviolate for the purposes set forth in
29 this section.

30 (f) As used in this section, "moneys that are recovered" includes
31 damages, penalties, attorney fees, costs, disbursements, refunds, rebates or
32 any other monetary payment made or paid by any defendant by reason of
33 any judgment, consent decree or settlement, after payment of any costs or
34 fees allocated by court order.

35 (g) On or before September 1 of each year, the secretary of health and
36 environment shall submit an annual report to the legislature and the
37 legislative budget committee. The report shall include details of actual
38 expenditures related to adjustments of the federal medical assistance
39 percentage for the state of Kansas and all certified amounts transferred in
40 and out of the federal medical assistance percentage stabilization fund.

41 (h) This section shall take effect on and after July 1, 2023.

42 New Sec. 63. (a) As used in this section:

43 (1) "Contractor" means a professional firm with experience in

1 conducting rural hospital transformation projects and experience working
2 in the state of Kansas.

3 (2) "Department" means the department of health and environment.

4 (3) "Implementation support" means support in implementing a
5 transformation plan by one or more contractors in close collaboration with
6 a target hospital.

7 (4) "Rural hospital" means a hospital located outside of a major urban
8 or suburban area, but may be located within a metropolitan statistical area,
9 as defined by the department.

10 (5) "Rural hospital transformation program" means a program
11 administered by the department to support rural hospitals in assessing
12 viability and identifying new delivery models, strategic partnerships and
13 implementing financial reform, delivery system reform or operational
14 changes that enable continued provision of healthcare services in and
15 improving the health of rural communities.

16 (6) "Rural primary health center pilot initiative" means a program to
17 support rural communities by preserving access to healthcare services and
18 improving the health of the population through statutory and regulatory
19 changes.

20 (7) "Target hospital" means a rural hospital determined to be eligible
21 by the department for the rural hospital transformation program.

22 (8) "Transformation plan" means a strategic plan developed by one or
23 more contractors in close collaboration with a target hospital and local
24 community stakeholders to provide recommendations and actionable steps
25 to preserve healthcare services in the target hospital's community.

26 (b) The department shall establish an advisory committee comprised
27 of one or more representatives from each of the following: The department
28 of health and environment; the department of labor; the state board of
29 regents; the Kansas hospital association; the Kansas medical society; the
30 community care network of Kansas; the association of community mental
31 health centers of Kansas; the state board of healing arts; the Kansas farm
32 bureau; the emergency medical services board; and other public and
33 private stakeholders as deemed appropriate by the department.

34 (c) The department, in coordination with the advisory committee,
35 shall establish and manage the rural hospital transformation program and
36 shall identify one or more contractors to provide consultation to each
37 approved target hospital for the creation of a transformation plan,
38 including:

39 (1) Assessing community health needs by analyzing patient access
40 and utilization patterns and social determinants of health, including
41 transportation, housing and food security, that impact health outcomes;

42 (2) understanding the landscape of rural healthcare, including
43 hospital-based and outpatient services;

1 (3) developing hospital-specific strategic and operational
2 transformation plans tailored to the target hospital and community to
3 improve viability;

4 (4) providing support for the target hospital to implement the
5 transformation plan; and

6 (5) engaging with local healthcare and other community leaders and
7 residents to develop a holistic understanding of promising practices,
8 opportunities and barriers to care.

9 (d) A target hospital may submit an application to the department for
10 review and approval to receive consultation from identified contractors for
11 the development of a transformation plan. Such application shall be made
12 on a form and in a manner determined by the department, in coordination
13 with the advisory committee.

14 (e) Each transformation plan shall be developed through coordination
15 between the contractor, target hospital, target hospital community
16 stakeholders and other appropriate stakeholders. The transformation plan
17 shall include a timeline for implementation and shall be submitted to the
18 department. The department shall receive periodic progress updates on the
19 implementation of the transformation plan, as determined by the
20 department, and monitor the progress of target hospitals.

21 (f) The department, in coordination with the advisory committee,
22 shall identify state statutes and rules and regulations that may need to be
23 amended or otherwise altered to permit eligible hospitals to participate in
24 the rural primary health center pilot initiative.

25 (g) The department shall coordinate with the Kansas hospital
26 association to submit an application to the United States centers for
27 medicare and medicaid services to permit the establishment of the rural
28 primary health center pilot initiative.

29 (h) The department shall provide periodic updates on the rural health
30 transformation program and the rural primary health center pilot initiative
31 to the house of representatives standing committee on health and human
32 services and the senate standing committee on public health and welfare,
33 or any successor committees, upon the request of each such committee.

34 (i) This section shall take effect on and after July 1, 2023.

35 New Sec. 64. (a) The insurance department shall analyze and prepare
36 a report detailing any cost shifting from hospitals to commercial health
37 insurance plans as a result of implementation of the Kansas innovative
38 solutions for affordable healthcare act.

39 (b) The insurance department shall compile such report using data
40 from the Kansas health insurance informations system, data calls and other
41 data sources available to the department. Using such data, the insurance
42 department shall determine a base rate paid to hospitals in Kansas for
43 healthcare services from commercial insurance companies as a percentage

1 of the current published medicare allowable rates established by the
2 United States centers for medicare and medicaid services, categorized by
3 the seven geographic rating areas in Kansas established by the United
4 States centers for medicare and medicaid services.

5 (c) Such report shall include such data for the current calendar year
6 and historical data for the 10 years prior to such year, except that such
7 historical data shall not include data prior to calendar year 2018.

8 (d) Such report shall be submitted to the house of representatives
9 standing committee on health and human services and the senate standing
10 committee on public health and welfare, or any successor committees, on
11 or before January 9, 2023, and on or before the first day of the regular
12 session of the legislature each year thereafter.

13 New Sec. 65. (a) The insurance department shall study and prepare a
14 report on any risks and benefits associated with converting the health
15 benefit exchange operated in Kansas under the federal patient protection
16 and affordable care act from a federally facilitated health benefit exchange
17 to a state-based health benefit exchange. To assist with the completion of
18 such study and report, the insurance department shall identify and procure
19 a contractor with experience in developing a state-based health benefit
20 exchange under the federal patient protection and affordable care act.

21 (b) Such study and report shall include, but not be limited to, any
22 financial impacts to commercial health insurance premium rates from such
23 conversion and any additional flexibility allowed to the state in plan
24 design, benefits and income levels on a state-based health benefit
25 exchange.

26 (c) Such study and report shall be submitted to the house of
27 representatives standing committee on health and human services and the
28 senate standing committee on public health and welfare or any successor
29 committees on or before January 10, 2022.

30 New Sec. 66. (a) The secretary of health and environment, in
31 coordination with the Kansas hospital association, Kansas medical society,
32 community care network of Kansas and other private and public
33 stakeholders, as deemed appropriate by the secretary, shall establish a task
34 force to develop a plan to measure and report uncompensated care
35 provided by Kansas healthcare providers and hospitals when
36 reimbursement for care provided to a patient is not collected.

37 (b) The task force shall define "uncompensated care" to include, but
38 not be limited to:

39 (1) "Charity care," defined as expenses for care for which the hospital
40 never expects to be reimbursed;

41 (2) "bad debt," defined as expenses incurred when a hospital cannot
42 obtain reimbursement for services because the patient is unable or
43 unwilling to pay for such services; and

1 (3) "uncompensated care," defined as the sum of bad debt and charity
 2 care expenses.

3 (c) The task force shall identify and research data elements that are
 4 already available, in order to minimize administrative burdens on
 5 healthcare providers and hospitals.

6 (d) Such report shall include such data for the current calendar year
 7 and historical data for the 10 years prior to such year, except that such
 8 historical data shall not include data prior to calendar year 2018.

9 (e) Such report shall be submitted to the house of representatives
 10 standing committee on health and human services and the senate standing
 11 committee on public health and welfare, or any successor committees, on
 12 or before January 9, 2023, and on or before the first day of the regular
 13 session of the legislature each year thereafter.

14 Sec. 67.

15 INSURANCE DEPARTMENT

16 (a) Notwithstanding the provisions of K.S.A. 39-709(e)(2) or 40-112,
 17 and amendments thereto, or any other statute to the contrary, during the
 18 fiscal years ending June 30, 2021, and June 30, 2022, in addition to the
 19 other purposes for which expenditures may be made by the above agency
 20 from moneys appropriated from the insurance department service
 21 regulation fund for fiscal years 2021 and 2022 by section 36(a) of chapter
 22 5 of the 2020 Session Laws of Kansas, this or any other appropriation act
 23 of the 2021 regular session of the legislature, expenditures shall be made
 24 by the above agency from such moneys to:

25 (1) Study any risks and benefits associated with converting the health
 26 benefit exchange operated in Kansas under the federal patient protection
 27 and affordable care act from a federally facilitated health benefit exchange
 28 to a state-based health benefit exchange;

29 (2) procure the services of a contractor with experience in developing
 30 a state-based health benefit exchange in order to facilitate such study; and

31 (3) submit a report based on such study to the legislature on or before
 32 January 10, 2022.

33 Sec. 68.

34 DEPARTMENT OF HEALTH AND ENVIRONMENT –
 35 DIVISION OF HEALTH CARE FINANCE

36 (a) During the fiscal years ending June 30, 2021, and June 30, 2022,
 37 in addition to the other purposes for which expenditures may be made by
 38 the above agency from moneys appropriated from the state general fund or
 39 from any special revenue fund or funds for fiscal years 2021 and 2022 by
 40 section 70 of chapter 5 of the 2020 Session Laws of Kansas, this or any
 41 other appropriation act of the 2021 regular session of the legislature,
 42 expenditures shall be made by the above agency from such moneys to
 43 submit to the United States centers for medicare and medicaid services,

1 prior to January 1, 2022, a waiver request to allow for medicaid
2 reimbursement for inpatient psychiatric acute care.

3 (b) On the effective date of this act, the provisions of section 70(k) of
4 chapter 5 of the 2020 Session Laws of Kansas shall be null and void and
5 shall have no force and effect.

6 Sec. 69. On and after July 1, 2023, K.S.A. 2020 Supp. 21-5703 is
7 hereby amended to read as follows: 21-5703. (a) It shall be unlawful for
8 any person to manufacture any controlled substance or controlled
9 substance analog.

10 (b) Violation or attempted violation of subsection (a) is a:

11 (1) Drug severity level 2 felony, except as provided in subsections (b)
12 (2) and (b)(3);

13 (2) drug severity level 1 felony if:

14 (A) The controlled substance is not methamphetamine, as defined by
15 ~~subsection (d)(3) or (f)(1) of K.S.A. 65-4107(d)(3) or (f)(1),~~ and
16 amendments thereto, or an analog thereof; and

17 (B) the offender has a prior conviction for unlawful manufacturing of
18 a controlled substance under this section, K.S.A. 65-4159, prior to its
19 repeal, K.S.A. 2010 Supp. 21-36a03, prior to its transfer, or a substantially
20 similar offense from another jurisdiction and the substance was not
21 methamphetamine, as defined by ~~subsection (d)(3) or (f)(1) of K.S.A. 65-~~
22 ~~4107(d)(3) or (f)(1),~~ and amendments thereto, or an analog thereof, in any
23 such prior conviction; and

24 (3) drug severity level 1 felony if the controlled substance is
25 methamphetamine, as defined by ~~subsection (d)(3) or (f)(1) of K.S.A. 65-~~
26 ~~4107(d)(3) or (f)(1),~~ and amendments thereto, or an analog thereof.

27 (c) The provisions of ~~subsection (d) of K.S.A. 2020 Supp. 21-~~
28 ~~5301(d),~~ and amendments thereto, shall not apply to a violation of
29 attempting to unlawfully manufacture any controlled substance or
30 controlled substance analog pursuant to this section.

31 (d) For persons arrested and charged under this section, bail shall be
32 at least \$50,000 cash or surety, and such person shall not be released upon
33 the person's own recognizance pursuant to K.S.A. 22-2802, and
34 amendments thereto, unless the court determines, on the record, that the
35 defendant is not likely to re-offend, the court imposes pretrial supervision,
36 or the defendant agrees to participate in a licensed or certified drug
37 treatment program.

38 (e) The sentence of a person who violates this section shall not be
39 subject to statutory provisions for suspended sentence, community service
40 work or probation.

41 (f) The sentence of a person who violates this section, K.S.A. 65-
42 4159, prior to its repeal or K.S.A. 2010 Supp. 21-36a03, prior to its
43 transfer, shall not be reduced because these sections prohibit conduct

1 identical to that prohibited by K.S.A. 65-4161 or 65-4163, prior to their
2 repeal, K.S.A. 2010 Supp. 21-36a05, prior to its transfer, or K.S.A. 2020
3 Supp. 21-5705, and amendments thereto.

4 (g) *The provisions of this section shall not apply to a cultivator or*
5 *processor licensed pursuant to section 20, and amendments thereto, that is*
6 *producing medical marijuana, as defined in section 2, and amendments*
7 *thereto, when used for acts authorized by the Kansas medical marijuana*
8 *regulation act, section 1 et seq., and amendments thereto.*

9 Sec. 70. On and after July 1, 2023, K.S.A. 2020 Supp. 21-5705 is
10 hereby amended to read as follows: 21-5705. (a) It shall be unlawful for
11 any person to distribute or possess with the intent to distribute any of the
12 following controlled substances or controlled substance analogs thereof:

13 (1) Opiates, opium or narcotic drugs, or any stimulant designated in
14 ~~subsection (d)(1), (d)(3) or (f)(1) of K.S.A. 65-4107(d)(1), (d)(3) or (f)(1),~~
15 and amendments thereto;

16 (2) any depressant designated in ~~subsection (e) of K.S.A. 65-4105(e),~~
17 ~~subsection (e) of K.S.A. 65-4107(e), subsection (b) or (c) of K.S.A. 65-~~
18 ~~4109(b) or (c) or subsection (b) of K.S.A. 65-4111(b),~~ and amendments
19 thereto;

20 (3) any stimulant designated in ~~subsection (f) of K.S.A. 65-4105(f),~~
21 ~~subsection (d)(2), (d)(4), (d)(5) or (f)(2) of K.S.A. 65-4107(d)(2), (d)(4),~~
22 ~~(d)(5) or (f)(2) or subsection (e) of K.S.A. 65-4109(e),~~ and amendments
23 thereto;

24 (4) any hallucinogenic drug designated in ~~subsection (d) of K.S.A.~~
25 ~~65-4105(d), subsection (g) of K.S.A. 65-4107(g) or subsection (g) of~~
26 ~~K.S.A. 65-4109(g),~~ and amendments thereto;

27 (5) any substance designated in ~~subsection (g) of K.S.A. 65-4105(g)~~
28 ~~and subsection (e), (d), (e), (f) or (g) of K.S.A. 65-4111(c), (d), (e), (f) or~~
29 ~~(g),~~ and amendments thereto;

30 (6) any anabolic steroids as defined in ~~subsection (f) of K.S.A. 65-~~
31 ~~4109(f),~~ and amendments thereto; or

32 (7) any substance designated in ~~subsection (h) of K.S.A. 65-4105(h),~~
33 and amendments thereto.

34 (b) It shall be unlawful for any person to distribute or possess with
35 the intent to distribute a controlled substance or a controlled substance
36 analog designated in K.S.A. 65-4113, and amendments thereto.

37 (c) It shall be unlawful for any person to cultivate any controlled
38 substance or controlled substance analog listed in subsection (a).

39 (d) (1) Except as provided further, violation of subsection (a) is a:

40 (A) Drug severity level 4 felony if the quantity of the material was
41 less than 3.5 grams;

42 (B) drug severity level 3 felony if the quantity of the material was at
43 least 3.5 grams but less than 100 grams;

1 (C) drug severity level 2 felony if the quantity of the material was at
2 least 100 grams but less than 1 kilogram; and

3 (D) drug severity level 1 felony if the quantity of the material was 1
4 kilogram or more.

5 (2) Violation of subsection (a) with respect to material containing any
6 quantity of marijuana, or an analog thereof, is a:

7 (A) Drug severity level 4 felony if the quantity of the material was
8 less than 25 grams;

9 (B) drug severity level 3 felony if the quantity of the material was at
10 least 25 grams but less than 450 grams;

11 (C) drug severity level 2 felony if the quantity of the material was at
12 least 450 grams but less than 30 kilograms; and

13 (D) drug severity level 1 felony if the quantity of the material was 30
14 kilograms or more.

15 (3) Violation of subsection (a) with respect to material containing any
16 quantity of heroin, as defined by ~~subsection (c)(1) of K.S.A. 65-4105(c)~~
17 *(1)*, and amendments thereto, or methamphetamine, as defined by
18 ~~subsection (d)(3) or (f)(1) of K.S.A. 65-4107(d)(3) or (f)(1)~~, and
19 amendments thereto, or an analog thereof, is a:

20 (A) Drug severity level 4 felony if the quantity of the material was
21 less than 1 gram;

22 (B) drug severity level 3 felony if the quantity of the material was at
23 least 1 gram but less than 3.5 grams;

24 (C) drug severity level 2 felony if the quantity of the material was at
25 least 3.5 grams but less than 100 grams; and

26 (D) drug severity level 1 felony if the quantity of the material was
27 100 grams or more.

28 (4) Violation of subsection (a) with respect to material containing any
29 quantity of a controlled substance designated in K.S.A. 65-4105, 65-4107,
30 65-4109 or 65-4111, and amendments thereto, or an analog thereof,
31 distributed by dosage unit, is a:

32 (A) Drug severity level 4 felony if the number of dosage units was
33 fewer than 10;

34 (B) drug severity level 3 felony if the number of dosage units was at
35 least 10 but less than 100;

36 (C) drug severity level 2 felony if the number of dosage units was at
37 least 100 but less than 1,000; and

38 (D) drug severity level 1 felony if the number of dosage units was
39 1,000 or more.

40 (5) For any violation of subsection (a), the severity level of the
41 offense shall be increased one level if the controlled substance or
42 controlled substance analog was distributed or possessed with the intent to
43 distribute on or within 1,000 feet of any school property.

- 1 (6) Violation of subsection (b) is a:
- 2 (A) Class A person misdemeanor, except as provided in ~~subsection~~
- 3 ~~(4)(6)(B)~~ *subparagraph (B)*; and
- 4 (B) nondrug severity level 7, person felony if the substance was
- 5 distributed to or possessed with the intent to distribute to a minor.
- 6 (7) Violation of subsection (c) is a:
- 7 (A) Drug severity level 3 felony if the number of plants cultivated
- 8 was more than 4 but fewer than 50;
- 9 (B) drug severity level 2 felony if the number of plants cultivated was
- 10 at least 50 but fewer than 100; and
- 11 (C) drug severity level 1 felony if the number of plants cultivated was
- 12 100 or more.
- 13 (e) In any prosecution under this section, there shall be a rebuttable
- 14 presumption of an intent to distribute if any person possesses the following
- 15 quantities of controlled substances or analogs thereof:
- 16 (1) 450 grams or more of marijuana;
- 17 (2) 3.5 grams or more of heroin or methamphetamine;
- 18 (3) 100 dosage units or more containing a controlled substance; or
- 19 (4) 100 grams or more of any other controlled substance.
- 20 (f) It shall not be a defense to charges arising under this section that
- 21 the defendant:
 - 22 (1) Was acting in an agency relationship on behalf of any other party
 - 23 in a transaction involving a controlled substance or controlled substance
 - 24 analog;
 - 25 (2) did not know the quantity of the controlled substance or
 - 26 controlled substance analog; or
 - 27 (3) did not know the specific controlled substance or controlled
 - 28 substance analog contained in the material that was distributed or
 - 29 possessed with the intent to distribute.
- 30 (g) *The provisions of subsections (a)(4) and (a)(5) shall not apply to:*
 - 31 (1) *Any cultivator licensed pursuant to section 20, and amendments*
 - 32 *thereto, or any employee or agent thereof, that is growing medical*
 - 33 *marijuana for the purpose of sale to a licensed processor as authorized by*
 - 34 *section 21, and amendments thereto;*
 - 35 (2) *any processor licensed pursuant to section 20, and amendments*
 - 36 *thereto, or any employee or agent thereof, that is processing medical*
 - 37 *marijuana for the purpose of sale or distribution to a licensed processor,*
 - 38 *distributor or retail dispensary as authorized by section 22, and*
 - 39 *amendments thereto;*
 - 40 (3) *any distributor licensed pursuant to section 20, and amendments*
 - 41 *thereto, or any employee or agent thereof, that is storing or distributing*
 - 42 *medical marijuana for the purpose of wholesale or distribution to a*
 - 43 *licensed retail dispensary as authorized by section 23, and amendments*

1 *thereto; or*

2 *(4) any retail dispensary licensed pursuant to section 25, and*
 3 *amendments thereto, or any employee or agent thereof, that is engaging in*
 4 *the sale of medical marijuana in a manner authorized by section 26, and*
 5 *amendments thereto.*

6 *(h) As used in this section:*

7 (1) "Material" means the total amount of any substance, including a
 8 compound or a mixture, ~~which~~ *that* contains any quantity of a controlled
 9 substance or controlled substance analog.

10 (2) "Dosage unit" means a controlled substance or controlled
 11 substance analog distributed or possessed with the intent to distribute as a
 12 discrete unit, including but not limited to, one pill, one capsule or one
 13 microdot, and not distributed by weight.

14 (A) For steroids, or controlled substances in liquid solution legally
 15 manufactured for prescription use, or an analog thereof, "dosage unit"
 16 means the smallest medically approved dosage unit, as determined by the
 17 label, materials provided by the manufacturer, a prescribing authority,
 18 licensed health care professional or other qualified health authority.

19 (B) For illegally manufactured controlled substances in liquid
 20 solution, or controlled substances in liquid products not intended for
 21 ingestion by human beings, or an analog thereof, "dosage unit" means 10
 22 milligrams, including the liquid carrier medium, except as provided in
 23 ~~subsection (g)(2)(C)~~ *subparagraph (C)*.

24 (C) For lysergic acid diethylamide (LSD) in liquid form, or an analog
 25 thereof, a dosage unit is defined as 0.4 milligrams, including the liquid
 26 medium.

27 *(3) "Medical marijuana" means the same as defined in section 2, and*
 28 *amendments thereto.*

29 Sec. 71. On and after July 1, 2023, K.S.A. 2020 Supp. 21-5706 is
 30 hereby amended to read as follows: 21-5706. (a) It shall be unlawful for
 31 any person to possess any opiates, opium or narcotic drugs, or any
 32 stimulant designated in K.S.A. 65-4107(d)(1), (d)(3) or (f)(1), and
 33 amendments thereto, or a controlled substance analog thereof.

34 (b) It shall be unlawful for any person to possess any of the following
 35 controlled substances or controlled substance analogs thereof:

36 (1) Any depressant designated in K.S.A. 65-4105(e), 65-4107(e), 65-
 37 4109(b) or (c) or 65-4111(b), and amendments thereto;

38 (2) any stimulant designated in K.S.A. 65-4105(f), 65-4107(d)(2), (d)
 39 (4), (d)(5) or (f)(2) or 65-4109(e), and amendments thereto;

40 (3) any hallucinogenic drug designated in K.S.A. 65-4105(d), 65-
 41 4107(g) or 65-4109(g), and amendments thereto;

42 (4) any substance designated in K.S.A. 65-4105(g) and 65-4111(c),
 43 (d), (e), (f) or (g), and amendments thereto;

1 (5) any anabolic steroids as defined in K.S.A. 65-4109(f), and
 2 amendments thereto;

3 (6) any substance designated in K.S.A. 65-4113, and amendments
 4 thereto; or

5 (7) any substance designated in K.S.A. 65-4105(h), and amendments
 6 thereto.

7 (c) (1) Violation of subsection (a) is a drug severity level 5 felony.

8 (2) Except as provided in subsection (c)(3):

9 (A) Violation of subsection (b) is a class A nonperson misdemeanor,
 10 except as provided in subparagraph (B); and

11 (B) violation of subsection (b)(1) through (b)(5) or (b)(7) is a drug
 12 severity level 5 felony if that person has a prior conviction under such
 13 subsection, under K.S.A. 65-4162, prior to its repeal, under a substantially
 14 similar offense from another jurisdiction, or under any city ordinance or
 15 county resolution for a substantially similar offense if the substance
 16 involved was 3, 4-methylenedioxyamphetamine (MDMA), marijuana
 17 as designated in K.S.A. 65-4105(d), and amendments thereto, or any
 18 substance designated in K.S.A. 65-4105(h), and amendments thereto, or an
 19 analog thereof.

20 (3) If the substance involved is marijuana, as designated in K.S.A.
 21 65-4105(d), and amendments thereto, or tetrahydrocannabinols, as
 22 designated in K.S.A. 65-4105(h), and amendments thereto, violation of
 23 subsection (b) is a:

24 (A) Class B nonperson misdemeanor, except as provided in
 25 subparagraphs (B) ~~and~~, (C) *and* (D);

26 (B) class A nonperson misdemeanor if that person has a prior
 27 conviction under such subsection, under K.S.A. 65-4162, prior to its
 28 repeal, under a substantially similar offense from another jurisdiction, or
 29 under any city ordinance or county resolution for a substantially similar
 30 offense; ~~and~~

31 (C) drug severity level 5 felony if that person has two or more prior
 32 convictions under such subsection, under K.S.A. 65-4162, prior to its
 33 repeal, under a substantially similar offense from another jurisdiction, or
 34 under any city ordinance or county resolution for a substantially similar
 35 offense; *and*

36 (D) *nonperson misdemeanor punishable by a fine not to exceed \$400,*
 37 *if that person is not a registered patient or caregiver under the Kansas*
 38 *medical marijuana regulation act, section 1 et seq., and amendments*
 39 *thereto, is found in possession of not more than 1.5 ounces of marijuana*
 40 *and provides a statement from such person's physician recommending the*
 41 *use of medical marijuana to treat such person's symptoms.*

42 (d) ~~It shall be an affirmative defense to prosecution under this section~~
 43 ~~arising out of a person's possession of any cannabidiol treatment~~

1 preparation if the person:

2 ~~(1) Has a debilitating medical condition, as defined in K.S.A. 2020~~
3 ~~Supp. 65-6235, and amendments thereto, or is the parent or guardian of a~~
4 ~~minor child who has such debilitating medical condition;~~

5 ~~(2) is possessing a cannabidiol treatment preparation, as defined in~~
6 ~~K.S.A. 2020 Supp. 65-6235, and amendments thereto, that is being used to~~
7 ~~treat such debilitating medical condition; and~~

8 ~~(3) has possession of a letter, at all times while the person has~~
9 ~~possession of the cannabidiol treatment preparation, that:~~

10 ~~(A) Shall be shown to a law enforcement officer on such officer's~~
11 ~~request;~~

12 ~~(B) is dated within the preceding 15 months and signed by the~~
13 ~~physician licensed to practice medicine and surgery in Kansas who~~
14 ~~diagnosed the debilitating medical condition;~~

15 ~~(C) is on such physician's letterhead; and~~

16 ~~(D) identifies the person or the person's minor child as such~~
17 ~~physician's patient and identifies the patient's debilitating medical~~
18 ~~condition. If the substance involved is medical marijuana, as defined in~~
19 ~~section 2, and amendments thereto, the provisions of subsections (b) and~~
20 ~~(c) shall not apply to any person who is registered or licensed pursuant to~~
21 ~~the Kansas medical marijuana regulation act, section 1 et seq., and~~
22 ~~amendments thereto, whose possession is authorized by such act.~~

23 (e) It shall not be a defense to charges arising under this section that
24 the defendant was acting in an agency relationship on behalf of any other
25 party in a transaction involving a controlled substance or controlled
26 substance analog.

27 Sec. 72. On and after July 1, 2023, K.S.A. 2020 Supp. 21-5707 is
28 hereby amended to read as follows: 21-5707. (a) It shall be unlawful for
29 any person to knowingly or intentionally use any communication facility:

30 (1) In committing, causing, or facilitating the commission of any
31 felony under K.S.A. 2020 Supp. 21-5703, 21-5705 or 21-5706, and
32 amendments thereto; or

33 (2) in any attempt to commit, any conspiracy to commit, or any
34 criminal solicitation of any felony under K.S.A. 2020 Supp. 21-5703, 21-
35 5705 or 21-5706, and amendments thereto. Each separate use of a
36 communication facility may be charged as a separate offense under this
37 subsection.

38 (b) Violation of subsection (a) is a nondrug severity level 8,
39 nonperson felony.

40 (c) *The provisions of this section shall not apply to any person using*
41 *communication facilities for those activities authorized by the Kansas*
42 *medical marijuana regulation act, section 1 et seq., and amendments*
43 *thereto.*

1 (d) As used in this section, "communication facility" means any and
2 all public and private instrumentalities used or useful in the transmission
3 of writing, signs, signals, pictures or sounds of all kinds and includes
4 telephone, wire, radio, computer, computer networks, beepers, pagers and
5 all other means of communication.

6 Sec. 73. On and after July 1, 2023, K.S.A. 2020 Supp. 21-5709 is
7 hereby amended to read as follows: 21-5709. (a) It shall be unlawful for
8 any person to possess ephedrine, pseudoephedrine, red phosphorus,
9 lithium metal, sodium metal, iodine, anhydrous ammonia, pressurized
10 ammonia or phenylpropanolamine, or their salts, isomers or salts of
11 isomers with an intent to use the product to manufacture a controlled
12 substance.

13 (b) It shall be unlawful for any person to use or possess with intent to
14 use any drug paraphernalia to:

15 (1) Manufacture, cultivate, plant, propagate, harvest, test, analyze or
16 distribute a controlled substance; or

17 (2) store, contain, conceal, inject, ingest, inhale or otherwise
18 introduce a controlled substance into the human body.

19 (c) It shall be unlawful for any person to use or possess with intent to
20 use anhydrous ammonia or pressurized ammonia in a container not
21 approved for that chemical by the Kansas department of agriculture.

22 (d) It shall be unlawful for any person to purchase, receive or
23 otherwise acquire at retail any compound, mixture or preparation
24 containing more than 3.6 grams of pseudoephedrine base or ephedrine
25 base in any single transaction or any compound, mixture or preparation
26 containing more than nine grams of pseudoephedrine base or ephedrine
27 base within any 30-day period.

28 (e) (1) Violation of subsection (a) is a drug severity level 3 felony;

29 (2) violation of subsection (b)(1) is a:

30 (A) Drug severity level 5 felony, except as provided in subsection (e)
31 (2)(B); and

32 (B) class B nonperson misdemeanor if the drug paraphernalia was
33 used to cultivate fewer than five marijuana plants;

34 (3) violation of subsection (b)(2) is a class B nonperson
35 misdemeanor;

36 (4) violation of subsection (c) is a drug severity level 5 felony; and

37 (5) violation of subsection (d) is a class A nonperson misdemeanor.

38 (f) For persons arrested and charged under subsection (a) or (c), bail
39 shall be at least \$50,000 cash or surety, and such person shall not be
40 released upon the person's own recognizance pursuant to K.S.A. 22-2802,
41 and amendments thereto, unless the court determines, on the record, that
42 the defendant is not likely to reoffend, the court imposes pretrial
43 supervision or the defendant agrees to participate in a licensed or certified

1 drug treatment program.

2 (g) *The provisions of subsection (b) shall not apply to any person*
3 *registered or licensed pursuant to the Kansas medical marijuana*
4 *regulation act, section 1 et seq., and amendments thereto, whose*
5 *possession of such drug paraphernalia is used solely to produce or for the*
6 *administration of medical marijuana, as defined in section 2, and*
7 *amendments thereto, in a manner authorized by the Kansas medical*
8 *marijuana regulation act, section 1 et seq., and amendments thereto.*

9 Sec. 74. On and after July 1, 2023, K.S.A. 2020 Supp. 21-5710 is
10 hereby amended to read as follows: 21-5710. (a) It shall be unlawful for
11 any person to advertise, market, label, distribute or possess with the intent
12 to distribute:

13 (1) Any product containing ephedrine, pseudoephedrine, red
14 phosphorus, lithium metal, sodium metal, iodine, anhydrous ammonia,
15 pressurized ammonia or phenylpropanolamine or their salts, isomers or
16 salts of isomers if the person knows or reasonably should know that the
17 purchaser will use the product to manufacture a controlled substance or
18 controlled substance analog; or

19 (2) any product containing ephedrine, pseudoephedrine or
20 phenylpropanolamine, or their salts, isomers or salts of isomers for
21 indication of stimulation, mental alertness, weight loss, appetite control,
22 energy or other indications not approved pursuant to the pertinent federal
23 over-the-counter drug final monograph or tentative final monograph or
24 approved new drug application.

25 (b) It shall be unlawful for any person to distribute, possess with the
26 intent to distribute or manufacture with intent to distribute any drug
27 paraphernalia, knowing or under circumstances where one reasonably
28 should know that it will be used to manufacture or distribute a controlled
29 substance or controlled substance analog in violation of K.S.A. 2020 Supp.
30 21-5701 through 21-5717, and amendments thereto.

31 (c) It shall be unlawful for any person to distribute, possess with
32 intent to distribute or manufacture with intent to distribute any drug
33 paraphernalia, knowing or under circumstances where one reasonably
34 should know, that it will be used as such in violation of K.S.A. 2020 Supp.
35 21-5701 through 21-5717, and amendments thereto, ~~except subsection (b)~~
36 ~~of K.S.A. 2020 Supp. 21-5706(b), and amendments thereto.~~

37 (d) It shall be unlawful for any person to distribute, possess with
38 intent to distribute or manufacture with intent to distribute any drug
39 paraphernalia, knowing, or under circumstances where one reasonably
40 should know, that it will be used as such in violation of ~~subsection (b) of~~
41 ~~K.S.A. 2020 Supp. 21-5706(b), and amendments thereto.~~

42 (e) (1) Violation of subsection (a) is a drug severity level 3 felony;

43 (2) violation of subsection (b) is a:

1 (A) Drug severity level 5 felony, except as provided in subsection (e)
 2 (2)(B); and

3 (B) drug severity level 4 felony if the trier of fact makes a finding that
 4 the offender distributed or caused drug paraphernalia to be distributed to a
 5 minor or on or within 1,000 feet of any school property;

6 (3) violation of subsection (c) is a:

7 (A) Nondrug severity level 9, nonperson felony, except as provided in
 8 subsection (e)(3)(B); and

9 (B) drug severity level 5 felony if the trier of fact makes a finding that
 10 the offender distributed or caused drug paraphernalia to be distributed to a
 11 minor or on or within 1,000 feet of any school property; and

12 (4) violation of subsection (d) is a:

13 (A) Class A nonperson misdemeanor, except as provided in
 14 subsection (e)(4)(B); and

15 (B) nondrug severity level 9, nonperson felony if the trier of fact
 16 makes a finding that the offender distributed or caused drug paraphernalia
 17 to be distributed to a minor or on or within 1,000 feet of any school
 18 property.

19 (f) For persons arrested and charged under subsection (a), bail shall
 20 be at least \$50,000 cash or surety, and such person shall not be released
 21 upon the person's own recognizance pursuant to K.S.A. 22-2802, and
 22 amendments thereto, unless the court determines, on the record, that the
 23 defendant is not likely to re-offend, the court imposes pretrial supervision
 24 or the defendant agrees to participate in a licensed or certified drug
 25 treatment program.

26 (g) *The provisions of subsection (c) shall not apply to persons*
 27 *licensed pursuant to this act who distribute, possess with intent to*
 28 *distribute or manufacture with intent to distribute any drug paraphernalia*
 29 *solely to distribute or produce medical marijuana, as defined in section 2,*
 30 *and amendments thereto, in a manner authorized by the Kansas medical*
 31 *marijuana regulation act, section 1 et seq., and amendments thereto.*

32 (h) As used in this section, "or under circumstances where one
 33 reasonably should know" that an item will be used in violation of this
 34 section, shall include, but not be limited to, the following:

35 (1) Actual knowledge from prior experience or statements by
 36 customers;

37 (2) inappropriate or impractical design for alleged legitimate use;

38 (3) receipt of packaging material, advertising information or other
 39 manufacturer supplied information regarding the item's use as drug
 40 paraphernalia; or

41 (4) receipt of a written warning from a law enforcement or
 42 prosecutorial agency having jurisdiction that the item has been previously
 43 determined to have been designed specifically for use as drug

1 paraphernalia.

2 Sec. 75. On and after July 1, 2023, K.S.A. 2020 Supp. 23-3203 is
3 hereby amended to read as follows: 23-3203. (a) In determining the issue
4 of legal custody, residency and parenting time of a child, the court shall
5 consider all relevant factors, including, but not limited to:

6 (1) Each parent's role and involvement with the minor child before
7 and after separation;

8 (2) the desires of the child's parents as to custody or residency;

9 (3) the desires of a child of sufficient age and maturity as to the
10 child's custody or residency;

11 (4) the age of the child;

12 (5) the emotional and physical needs of the child;

13 (6) the interaction and interrelationship of the child with parents,
14 siblings and any other person who may significantly affect the child's best
15 interests;

16 (7) the child's adjustment to the child's home, school and community;

17 (8) the willingness and ability of each parent to respect and appreciate
18 the bond between the child and the other parent and to allow for a
19 continuing relationship between the child and the other parent;

20 (9) evidence of domestic abuse, including, but not limited to:

21 (A) A pattern or history of physically or emotionally abusive
22 behavior or threat thereof used by one person to gain or maintain
23 domination and control over an intimate partner or household member; or

24 (B) an act of domestic violence, stalking or sexual assault;

25 (10) the ability of the parties to communicate, cooperate and manage
26 parental duties;

27 (11) the school activity schedule of the child;

28 (12) the work schedule of the parties;

29 (13) the location of the parties' residences and places of employment;

30 (14) the location of the child's school;

31 (15) whether a parent is subject to the registration requirements of the
32 Kansas offender registration act, K.S.A. 22-4901 et seq., and amendments
33 thereto, or any similar act in any other state, or under military or federal
34 law;

35 (16) whether a parent has been convicted of abuse of a child, K.S.A.
36 21-3609, prior to its repeal, or K.S.A. 2020 Supp. 21-5602, and
37 amendments thereto;

38 (17) whether a parent is residing with an individual who is subject to
39 registration requirements of the Kansas offender registration act, K.S.A.
40 22-4901 et seq., and amendments thereto, or any similar act in any other
41 state, or under military or federal law; and

42 (18) whether a parent is residing with an individual who has been
43 convicted of abuse of a child, K.S.A. 21-3609, prior to its repeal, or K.S.A.

1 2020 Supp. 21-5602, and amendments thereto.

2 (b) To aid in determining the issue of legal custody, residency and
3 parenting time of a child, the court may order a parent to undergo a
4 domestic violence offender assessment conducted by a certified batterer
5 intervention program and may order such parent to follow all
6 recommendations made by such program.

7 (c) *In determining the issue of legal custody, residency and parenting*
8 *time, the court shall not consider the fact that a parent or a child*
9 *consumes medical marijuana in accordance with the Kansas medical*
10 *marijuana regulation act.*

11 Sec. 76. On and after July 1, 2023, K.S.A. 2020 Supp. 38-2269 is
12 hereby amended to read as follows: 38-2269. (a) When the child has been
13 adjudicated to be a child in need of care, the court may terminate parental
14 rights or appoint a permanent custodian when the court finds by clear and
15 convincing evidence that the parent is unfit by reason of conduct or
16 condition which renders the parent unable to care properly for a child and
17 the conduct or condition is unlikely to change in the foreseeable future.

18 (b) In making a determination of unfitness the court shall consider,
19 but is not limited to, the following, if applicable:

20 (1) Emotional illness, mental illness, mental deficiency or physical
21 disability of the parent, of such duration or nature as to render the parent
22 unable to care for the ongoing physical, mental and emotional needs of the
23 child;

24 (2) conduct toward a child of a physically, emotionally or sexually
25 cruel or abusive nature;

26 (3) the use of intoxicating liquors or narcotic or dangerous drugs of
27 such duration or nature as to render the parent unable to care for the
28 ongoing physical, mental or emotional needs of the child, *except the use of*
29 *medical marijuana in accordance with the Kansas medical marijuana*
30 *regulation act shall not be considered to render the parent unable to care*
31 *for the ongoing physical, mental or emotional needs of the child;*

32 (4) physical, mental or emotional abuse or neglect or sexual abuse of
33 a child;

34 (5) conviction of a felony and imprisonment;

35 (6) unexplained injury or death of another child or stepchild of the
36 parent or any child in the care of the parent at the time of injury or death;

37 (7) failure of reasonable efforts made by appropriate public or private
38 agencies to rehabilitate the family;

39 (8) lack of effort on the part of the parent to adjust the parent's
40 circumstances, conduct or conditions to meet the needs of the child; and

41 (9) whether, as a result of the actions or inactions attributable to the
42 parent and one or more of the factors listed in subsection (c) apply, the
43 child has been in the custody of the secretary and placed with neither

1 parent for 15 of the most recent 22 months beginning 60 days after the
2 date on which a child in the secretary's custody was removed from the
3 child's home.

4 (c) In addition to the foregoing, when a child is not in the physical
5 custody of a parent, the court, shall consider, but is not limited to, the
6 following:

7 (1) Failure to assure care of the child in the parental home when able
8 to do so;

9 (2) failure to maintain regular visitation, contact or communication
10 with the child or with the custodian of the child;

11 (3) failure to carry out a reasonable plan approved by the court
12 directed toward the integration of the child into a parental home; and

13 (4) failure to pay a reasonable portion of the cost of substitute
14 physical care and maintenance based on ability to pay.

15 In making the above determination, the court may disregard incidental
16 visitations, contacts, communications or contributions.

17 (d) A finding of unfitness may be made as provided in this section if
18 the court finds that the parents have abandoned the child, the custody of
19 the child was surrendered pursuant to K.S.A. 2020 Supp. 38-2282, and
20 amendments thereto, or the child was left under such circumstances that
21 the identity of the parents is unknown and cannot be ascertained, despite
22 diligent searching, and the parents have not come forward to claim the
23 child within three months after the child is found.

24 (e) If a person is convicted of a felony in which sexual intercourse
25 occurred, or if a juvenile is adjudicated a juvenile offender because of an
26 act which, if committed by an adult, would be a felony in which sexual
27 intercourse occurred, and as a result of the sexual intercourse, a child is
28 conceived, a finding of unfitness may be made.

29 (f) The existence of any one of the above factors standing alone may,
30 but does not necessarily, establish grounds for termination of parental
31 rights.

32 (g) (1) If the court makes a finding of unfitness, the court shall
33 consider whether termination of parental rights as requested in the petition
34 or motion is in the best interests of the child. In making the determination,
35 the court shall give primary consideration to the physical, mental and
36 emotional health of the child. If the physical, mental or emotional needs of
37 the child would best be served by termination of parental rights, the court
38 shall so order. A termination of parental rights under the code shall not
39 terminate the right of a child to inherit from or through a parent. Upon
40 such termination all rights of the parent to such child, including, such
41 parent's right to inherit from or through such child, shall cease.

42 (2) If the court terminates parental rights, the court may authorize
43 adoption pursuant to K.S.A. 2020 Supp. 38-2270, and amendments

1 thereto, appointment of a permanent custodian pursuant to K.S.A. 2020
2 Supp. 38-2272, and amendments thereto, or continued permanency
3 planning.

4 (3) If the court does not terminate parental rights, the court may
5 authorize appointment of a permanent custodian pursuant to K.S.A. 2020
6 Supp. 38-2272, and amendments thereto, or continued permanency
7 planning.

8 (h) If a parent is convicted of an offense as provided in K.S.A. 2020
9 Supp. 38-2271(a)(7), and amendments thereto, or is adjudicated a juvenile
10 offender because of an act which if committed by an adult would be an
11 offense as provided in K.S.A. 2020 Supp. 38-2271(a)(7), and amendments
12 thereto, and if the victim was the other parent of a child, the court may
13 disregard such convicted or adjudicated parent's opinions or wishes in
14 regard to the placement of such child.

15 (i) A record shall be made of the proceedings.

16 (j) When adoption, proceedings to appoint a permanent custodian or
17 continued permanency planning has been authorized, the person or agency
18 awarded custody of the child shall within 30 days submit a written plan for
19 permanent placement which shall include measurable objectives and time
20 schedules.

21 Sec. 77. K.S.A. 2020 Supp. 39-7,160 is hereby amended to read as
22 follows: 39-7,160. (a) There is hereby established the Robert G. (Bob)
23 Bethell joint committee on home and community based services and
24 KanCare oversight. The joint committee shall review the number of
25 individuals who are transferred from state or private institutions and long-
26 term care facilities to the home and community based services and the
27 associated cost savings and other outcomes of the money-follows-the-
28 person program. The joint committee shall review the funding targets
29 recommended by the interim report submitted for the 2007 legislature by
30 the joint committee on legislative budget and use them as guidelines for
31 future funding planning and policy making. The joint committee shall have
32 oversight of savings resulting from the transfer of individuals from state or
33 private institutions to home and community based services. As used in
34 K.S.A. 2020 Supp. 39-7,159 through 39-7,162, and amendments thereto,
35 "savings" means the difference between the average cost of providing
36 services for individuals in an institutional setting and the cost of providing
37 services in a home and community based setting. The joint committee shall
38 study and determine the effectiveness of the program and cost-analysis of
39 the state institutions or long-term care facilities based on the success of the
40 transfer of individuals to home and community based services. The joint
41 committee shall consider the issues of whether sufficient funding is
42 provided for enhancement of wages and benefits of direct individual care
43 workers and their staff training and whether adequate progress is being

1 made to transfer individuals from the institutions and to move them from
2 the waiver waiting lists to receive home and community based services.
3 The joint committee shall review and ensure that any proceeds resulting
4 from the successful transfer be applied to the system of provision of
5 services for long-term care and home and community based services. The
6 joint committee shall monitor and study the implementation and operations
7 of the home and community based service programs, the children's health
8 insurance program, the program for the all-inclusive care of the elderly
9 and the state medicaid programs including, but not limited to, access to
10 and quality of services provided and any financial information and
11 budgetary issues. Any state agency shall provide data and information on
12 KanCare programs, including, but not limited to, pay for performance
13 measures, quality measures and enrollment and disenrollment in specific
14 plans, KanCare provider network data and appeals and grievances made to
15 the KanCare ombudsman, to the joint committee, as requested.

16 (b) The joint committee shall consist of 11 members of the legislature
17 appointed as follows:

18 (1) Two members of the house committee on health and human
19 services appointed by the speaker of the house of representatives;

20 (2) one member of the house committee on health and human
21 services appointed by the minority leader of the house of representatives;

22 (3) two members of the senate committee on public health and
23 welfare appointed by the president of the senate;

24 (4) one member of the senate committee on public health and welfare
25 appointed by the minority leader of the senate;

26 (5) two members of the house of representatives appointed by the
27 speaker of the house of representatives, one of whom shall be a member of
28 the house committee on appropriations;

29 (6) one member of the house of representatives appointed by the
30 minority leader of the house of representatives; and

31 (7) two members of the senate appointed by the president of the
32 senate, one of whom shall be a member of the senate committee on ways
33 and means.

34 (c) Members shall be appointed for terms coinciding with the
35 legislative terms for which such members are elected or appointed. All
36 members appointed to fill vacancies in the membership of the joint
37 committee and all members appointed to succeed members appointed to
38 membership on the joint committee shall be appointed in the manner
39 provided for the original appointment of the member succeeded.

40 (d) (1) The members originally appointed as members of the joint
41 committee shall meet upon the call of the member appointed by the
42 speaker of the house of representatives, who shall be the first chairperson,
43 within 30 days of the effective date of this act. The vice-chairperson of the

1 joint committee shall be appointed by the president of the senate.
2 Chairperson and vice-chairperson shall alternate annually between the
3 members appointed by the speaker of the house of representatives and the
4 president of the senate. The ranking minority member shall be from the
5 same chamber as the chairperson. ~~On and after the effective date of this~~
6 ~~act~~*Except as provided in paragraph (2)*, the joint committee shall meet at
7 least once in January and once in April when the legislature is in regular
8 session and at least once for two consecutive days during each of the third
9 and fourth calendar quarters, on the call of the chairperson, but not to
10 exceed six meetings in a calendar year, except additional meetings may be
11 held on call of the chairperson when urgent circumstances exist which
12 require such meetings. Six members of the joint committee shall constitute
13 a quorum.

14 *(2) During calendar year 2022 and calendar year 2023, the joint*
15 *committee shall meet for one additional day per meeting in order to*
16 *monitor the implementation of the Kansas innovative solutions for*
17 *affordable healthcare act and to review the following topics relating to*
18 *such implementation:*

19 *(A) Payment integrity and eligibility audits;*

20 *(B) baseline and trend data detailing the amounts that hospitals are*
21 *paid from commercial insurance plans as a percentage of medicare*
22 *allowable rates established by the United States centers for medicare and*
23 *medicaid services;*

24 *(C) outcomes related to section 3, and amendments thereto;*

25 *(D) health outcomes for individuals covered under the act; budget*
26 *projections and actual expenditures related to implementation of the act;*
27 *and*

28 *(E) expenses incurred by hospitals arising from charity care and*
29 *services provided to patients who are unwilling or unable to pay for such*
30 *services.*

31 *(e) (1) At the beginning of each regular session of the legislature, the*
32 *committee shall submit to the president of the senate, the speaker of the*
33 *house of representatives, the house committee on health and human*
34 *services and the senate committee on public health and welfare a written*
35 *report on numbers of individuals transferred from the state or private*
36 *institutions to the home and community based services including the*
37 *average daily census in the state institutions and long-term care facilities,*
38 *savings resulting from the transfer certified by the secretary for aging and*
39 *disability services in a quarterly report filed in accordance with K.S.A.*
40 *2020 Supp. 39-7,162, and amendments thereto, and the current balance in*
41 *the home and community based services savings fund of the Kansas*
42 *department for aging and disability services.*

43 *(2) Such report submitted under this subsection shall also include, but*

1 not be limited to, the following information on the KanCare program:

2 (A) Quality of care and health outcomes of individuals receiving state
3 medicaid services under the KanCare program, as compared to the
4 provision of state medicaid services prior to January 1, 2013;

5 (B) integration and coordination of health care procedures for
6 individuals receiving state medicaid services under the KanCare program;

7 (C) availability of information to the public about the provision of
8 state medicaid services under the KanCare program, including, but not
9 limited to, accessibility to health services, expenditures for health services,
10 extent of consumer satisfaction with health services provided and
11 grievance procedures, including quantitative case data and summaries of
12 case resolution by the KanCare ombudsman;

13 (D) provisions for community outreach and efforts to promote the
14 public understanding of the KanCare program;

15 (E) comparison of the actual medicaid costs expended in providing
16 state medicaid services under the KanCare program after January 1, 2013,
17 to the actual costs expended under the provision of state medicaid services
18 prior to January 1, 2013, including the manner in which such cost
19 expenditures are calculated;

20 (F) comparison of the estimated costs expended in a managed care
21 system of providing state medicaid services under the KanCare program
22 after January 1, 2013, to the actual costs expended under the KanCare
23 program of providing state medicaid services after January 1, 2013;

24 (G) comparison of caseload information for individuals receiving
25 state medicaid services prior to January 1, 2013, to the caseload
26 information for individuals receiving state medicaid services under the
27 KanCare program after January 1, 2013; and

28 (H) all written testimony provided to the joint committee regarding
29 the impact of the provision of state medicaid services under the KanCare
30 program upon residents of adult care homes.

31 (3) The joint committee shall consider the external quality review
32 reports and quality assessment and performance improvement program
33 plans of each managed care organization providing state medicaid services
34 under the KanCare program in the development of the report submitted
35 under this subsection.

36 (4) The report submitted under this subsection shall be published on
37 the official website of the legislative research department.

38 (f) Members of the committee shall have access to any medical
39 assistance report and caseload data generated by the Kansas department of
40 health and environment division of health care finance. Members of the
41 committee shall have access to any report submitted by the Kansas
42 department of health and environment division of health care finance to
43 the centers for medicare and medicaid services of the United States

1 department of health and human services.

2 (g) Members of the committee shall be paid compensation, travel
3 expenses and subsistence expenses or allowance as provided in K.S.A. 75-
4 3212, and amendments thereto, for attendance at any meeting of the joint
5 committee or any subcommittee meeting authorized by the committee.

6 (h) In accordance with K.S.A. 46-1204, and amendments thereto, the
7 legislative coordinating council may provide for such professional services
8 as may be requested by the joint committee.

9 (i) The joint committee may make recommendations and introduce
10 legislation as it deems necessary in performing its functions.

11 Sec. 78. K.S.A. 2020 Supp. 40-3213 is hereby amended to read as
12 follows: 40-3213. (a) Every health maintenance organization and medicare
13 provider organization subject to this act shall pay to the commissioner the
14 following fees:

15 (1) For filing an application for a certificate of authority, \$150;

16 (2) for filing each annual report, \$50; *and*

17 (3) for filing an amendment to the certificate of authority, \$10.

18 (b) Every health maintenance organization subject to this act shall
19 pay annually to the commissioner at the time such organization files its
20 annual report, a privilege fee in an amount equal to ~~the following~~
21 ~~percentages~~ 5.77% of the total of all premiums, subscription charges or
22 any other term that may be used to describe the charges made by such
23 organization to enrollees: ~~3.31% during the reporting period beginning~~
24 ~~January 1, 2015, and ending December 31, 2017; and 5.77% on and after~~
25 ~~January 1, 2018.~~ In such computations all such organizations shall be
26 entitled to deduct therefrom any premiums or subscription charges
27 returned on account of cancellations and dividends returned to enrollees. If
28 the commissioner shall determine at any time that the application of the
29 privilege fee, or a change in the rate of the privilege fee, would cause a
30 denial of, reduction in or elimination of federal financial assistance to the
31 state or to any health maintenance organization subject to this act, the
32 commissioner is hereby authorized to terminate the operation of such
33 privilege fee or the change in such privilege fee.

34 (c) For the purpose of insuring the collection of the privilege fee
35 provided for by subsection (b), every health maintenance organization
36 subject to this act and required by subsection (b) to pay such privilege fee
37 shall at the time it files its annual report, as required by K.S.A. 40-3220,
38 and amendments thereto, make a return, generated by or at the direction of
39 its chief officer or principal managing director, under penalty of K.S.A.
40 2020 Supp. 21-5824, and amendments thereto, to the commissioner,
41 stating the amount of all premiums, assessments and charges received by
42 the health maintenance organization, whether in cash or notes, during the
43 year ending on the last day of the preceding calendar year. Upon the

1 receipt of such returns the commissioner of insurance shall verify such
2 returns and reconcile the fees pursuant to subsection (f) upon such
3 organization on the basis and at the rate provided in this section.

4 (d) Premiums or other charges received by an insurance company
5 from the operation of a health maintenance organization subject to this act
6 shall not be subject to any fee or tax imposed under the provisions of
7 K.S.A. 40-252, and amendments thereto.

8 (e) *Except as provided in section 56, and amendments thereto*, fees
9 charged under this section shall be remitted to the state treasurer in
10 accordance with the provisions of K.S.A. 75-4215, and amendments
11 thereto. Upon receipt of each such remittance, the state treasurer shall
12 deposit the entire amount in the state treasury to the credit of the medical
13 assistance fee fund created by K.S.A. 2020 Supp. 40-3236, and
14 amendments thereto.

15 (f) (1) ~~On and after January 1, 2018,~~ In addition to any other filing or
16 return required by this section, each health maintenance organization shall
17 submit a report to the commissioner on or before March 31 and September
18 30 of each year containing an estimate of the total amount of all premiums,
19 subscription charges or any other term that may be used to describe the
20 charges made by such organization to enrollees that the organization
21 expects to collect during the current calendar year. Upon filing each March
22 31 report, the organization shall submit payment equal to ½ of the
23 privilege fee that would be assessed by the commissioner for the current
24 calendar year based upon the organization's reported estimate. Upon filing
25 each September 30 report, the organization shall submit payment equal to
26 the balance of the privilege fee that would be assessed by the
27 commissioner for the current calendar year based upon the organization's
28 reported estimates.

29 (2) Any amount of privilege fees actually owed by a health
30 maintenance organization during any calendar year in excess of estimated
31 privilege fees paid shall be assessed by the commissioner and shall be due
32 and payable upon issuance of such assessment.

33 (3) Any amount of estimated privilege fees paid by a health
34 maintenance organization during any calendar year in excess of privilege
35 fees actually owed shall be reconciled when the commissioner assesses
36 privilege fees in the ensuing calendar year. The commissioner shall credit
37 such excess amount against future privilege fee assessments. Any such
38 excess amount paid by a health maintenance organization that is no longer
39 doing business in Kansas and that no longer has a duty to pay the privilege
40 fee shall be refunded by the commissioner from funds appropriated by the
41 legislature for such purpose.

42 Sec. 79. On and after July 1, 2023, K.S.A. 2020 Supp. 44-501 is
43 hereby amended to read as follows: 44-501. (a) (1) Compensation for an

1 injury shall be disallowed if such injury to the employee results from:

2 (A) The employee's deliberate intention to cause such injury;

3 (B) the employee's willful failure to use a guard or protection against
4 accident or injury which is required pursuant to any statute and provided
5 for the employee;

6 (C) the employee's willful failure to use a reasonable and proper
7 guard and protection voluntarily furnished the employee by the employer;

8 (D) the employee's reckless violation of their employer's workplace
9 safety rules or regulations; or

10 (E) the employee's voluntary participation in fighting or horseplay
11 with a co-employee for any reason, work related or otherwise.

12 (2) ~~Subparagraphs (B) and (C) of paragraph (1) of subsection~~
13 ~~(a) Subsections (a)(1)(B) and (a)(1)(C)~~ shall not apply when it was
14 reasonable under the totality of the circumstances to not use such
15 equipment, or if the employer approved the work engaged in at the time of
16 an accident or injury to be performed without such equipment.

17 (b) (1) (A) The employer shall not be liable under the workers
18 compensation act where the injury, disability or death was contributed to
19 by the employee's use or consumption of alcohol or any drugs, chemicals
20 or any other compounds or substances, including, but not limited to, any
21 drugs or medications ~~which~~ *that* are available to the public without a
22 prescription from a health care provider, prescription drugs or medications,
23 any form or type of narcotic drugs, marijuana, stimulants, depressants or
24 hallucinogens.

25 (B) (i) In the case of drugs or medications which are available to the
26 public without a prescription from a health care provider and prescription
27 drugs or medications, compensation shall not be denied if the employee
28 can show that such drugs or medications were being taken or used in
29 therapeutic doses and there have been no prior incidences of the
30 employee's impairment on the job as the result of the use of such drugs or
31 medications within the previous 24 months.

32 (ii) *In the case of marijuana or any other form of cannabis, including*
33 *any cannabis derivatives, compensation shall not be denied if the*
34 *employee is registered as a patient pursuant to section 8, and amendments*
35 *thereto, such cannabis or cannabis derivative was used in accordance*
36 *with the Kansas medical marijuana regulation act, section 1 et seq., and*
37 *amendments thereto, and there has been no prior incidence of the*
38 *employee's impairment on the job as a result of the use of such marijuana,*
39 *cannabis or cannabis derivative within the previous 24 months.*

40 (C) It shall be conclusively presumed that the employee was impaired
41 due to alcohol or drugs if it is shown that, at the time of the injury, the
42 employee had an alcohol concentration of .04 or more, or a GCMS
43 confirmatory test by quantitative analysis showing a concentration at or

1 above the levels shown on the following chart for the drugs of abuse listed:
2 Confirmatory
3 test cutoff
4 levels (ng/ml)
5 Marijuana metabolite¹ 15
6 Cocaine metabolite² 150
7 Opiates:
8 Morphine 2000
9 Codeine 2000
10 6-Acetylmorphine⁴³ 10 ng/ml
11 Phencyclidine 25
12 Amphetamines:
13 Amphetamine 500
14 Methamphetamine³⁴ 500

15 ¹ Delta-9-tetrahydrocannabinol-9-carboxylic acid.

16 ² Benzoyllecgonine.

17 ³ ~~Specimen must also contain amphetamine at a concentration greater~~
18 ~~than or equal to 200 ng/ml.~~

19 ⁴ Test for 6-AM when morphine concentration exceeds 2,000 ng/ml.

20 ⁴ *Specimen must also contain amphetamine at a concentration greater*
21 *than or equal to 200 ng/ml.*

22 (D) If it is shown that the employee was impaired pursuant to
23 subsection (b)(1)(C) at the time of the injury, there shall be a rebuttable
24 presumption that the accident, injury, disability or death was contributed to
25 by such impairment. The employee may overcome the presumption of
26 contribution by clear and convincing evidence.

27 (E) An employee's refusal to submit to a chemical test at the request
28 of the employer shall result in the forfeiture of benefits under the workers
29 compensation act if the employer had sufficient cause to suspect the use of
30 alcohol or drugs by the claimant or if the employer's policy clearly
31 authorizes post-injury testing.

32 (2) The results of a chemical test shall be admissible evidence to
33 prove impairment if the employer establishes that the testing was done
34 under any of the following circumstances:

35 (A) As a result of an employer mandated drug testing policy, in place
36 in writing prior to the date of accident or injury, requiring any worker to
37 submit to testing for drugs or alcohol;

38 (B) during an autopsy or in the normal course of medical treatment
39 for reasons related to the health and welfare of the injured worker and not
40 at the direction of the employer;

41 (C) the worker, prior to the date and time of the accident or injury,
42 gave written consent to the employer that the worker would voluntarily
43 submit to a chemical test for drugs or alcohol following any accident or

1 injury;

2 (D) the worker voluntarily agrees to submit to a chemical test for
3 drugs or alcohol following any accident or injury; or

4 (E) as a result of federal or state law or a federal or state rule or
5 regulation having the force and effect of law requiring a post-injury testing
6 program and such required program was properly implemented at the time
7 of testing.

8 (3) Notwithstanding subsection (b)(2), the results of a chemical test
9 performed on a sample collected by an employer shall not be admissible
10 evidence to prove impairment unless the following conditions are met:

11 (A) The test sample was collected within a reasonable time following
12 the accident or injury;

13 (B) the collecting and labeling of the test sample was performed by or
14 under the supervision of a licensed health care professional;

15 (C) the test was performed by a laboratory approved by the United
16 States department of health and human services or licensed by the
17 department of health and environment, except that a blood sample may be
18 tested for alcohol content by a laboratory commonly used for that purpose
19 by state law enforcement agencies;

20 (D) the test was confirmed by gas chromatography-mass
21 spectroscopy or other comparably reliable analytical method, except that
22 no such confirmation is required for a blood alcohol sample;

23 (E) the foundation evidence must establish, beyond a reasonable
24 doubt, that the test results were from the sample taken from the employee;
25 and

26 (F) a split sample sufficient for testing shall be retained and made
27 available to the employee within 48 hours of a positive test.

28 (c) (1) Except as provided in paragraph (2), compensation shall not
29 be paid in case of coronary or coronary artery disease or cerebrovascular
30 injury unless it is shown that the exertion of the work necessary to
31 precipitate the disability was more than the employee's usual work in the
32 course of the employee's regular employment.

33 (2) For events occurring on or after July 1, 2014, in the case of a
34 firefighter as defined by K.S.A. 40-1709(b)(1), and amendments thereto,
35 or a law enforcement officer as defined by K.S.A. 74-5602, and
36 amendments thereto, coronary or coronary artery disease or
37 cerebrovascular injury shall be compensable if:

38 (A) The injury can be identified as caused by a specific event
39 occurring in the course and scope of employment;

40 (B) the coronary or cerebrovascular injury occurred within 24 hours
41 of the specific event; and

42 (C) the specific event was the prevailing factor in causing the
43 coronary or coronary artery disease or cerebrovascular injury.

1 (d) Except as provided in the workers compensation act, no
2 construction design professional who is retained to perform professional
3 services on a construction project or any employee of a construction
4 design professional who is assisting or representing the construction
5 design professional in the performance of professional services on the site
6 of the construction project, shall be liable for any injury resulting from the
7 employer's failure to comply with safety standards on the construction
8 project for which compensation is recoverable under the workers
9 compensation act, unless responsibility for safety practices is specifically
10 assumed by contract. The immunity provided by this subsection to any
11 construction design professional shall not apply to the negligent
12 preparation of design plans or specifications.

13 (e) An award of compensation for permanent partial impairment,
14 work disability, or permanent total disability shall be reduced by the
15 amount of functional impairment determined to be preexisting. Any such
16 reduction shall not apply to temporary total disability, nor shall it apply to
17 compensation for medical treatment.

18 (1) Where workers compensation benefits have previously been
19 awarded through settlement or judicial or administrative determination in
20 Kansas, the percentage basis of the prior settlement or award shall
21 conclusively establish the amount of functional impairment determined to
22 be preexisting. Where workers compensation benefits have not previously
23 been awarded through settlement or judicial or administrative
24 determination in Kansas, the amount of preexisting functional impairment
25 shall be established by competent evidence.

26 (2) In all cases, the applicable reduction shall be calculated as
27 follows:

28 (A) If the preexisting impairment is the result of injury sustained
29 while working for the employer against whom workers compensation
30 benefits are currently being sought, any award of compensation shall be
31 reduced by the current dollar value attributable under the workers
32 compensation act to the percentage of functional impairment determined to
33 be preexisting. The "current dollar value" shall be calculated by
34 multiplying the percentage of preexisting impairment by the compensation
35 rate in effect on the date of the accident or injury against which the
36 reduction will be applied.

37 (B) In all other cases, the employer against whom benefits are
38 currently being sought shall be entitled to a credit for the percentage of
39 preexisting impairment.

40 (f) If the employee receives, whether periodically or by lump sum,
41 retirement benefits under the federal social security act or retirement
42 benefits from any other retirement system, program, policy or plan which
43 is provided by the employer against which the claim is being made, any

1 compensation benefit payments which the employee is eligible to receive
2 under the workers compensation act for such claim shall be reduced by the
3 weekly equivalent amount of the total amount of all such retirement
4 benefits, less any portion of any such retirement benefit, other than
5 retirement benefits under the federal social security act, that is attributable
6 to payments or contributions made by the employee, but in no event shall
7 the workers compensation benefit be less than the workers compensation
8 benefit payable for the employee's percentage of functional impairment.
9 Where the employee elects to take retirement benefits in a lump sum, the
10 lump sum payment shall be amortized at the rate of 4% per year over the
11 employee's life expectancy to determine the weekly equivalent value of the
12 benefits.

13 Sec. 80. On and after July 1, 2023, K.S.A. 2020 Supp. 44-706 is
14 hereby amended to read as follows: 44-706. The secretary shall examine
15 whether an individual has separated from employment for each week
16 claimed. The secretary shall apply the provisions of this section to the
17 individual's most recent employment prior to the week claimed. An
18 individual shall be disqualified for benefits:

19 (a) If the individual left work voluntarily without good cause
20 attributable to the work or the employer, subject to the other provisions of
21 this subsection. For purposes of this subsection, "good cause" is cause of
22 such gravity that would impel a reasonable, not supersensitive, individual
23 exercising ordinary common sense to leave employment. Good cause
24 requires a showing of good faith of the individual leaving work, including
25 the presence of a genuine desire to work. Failure to return to work after
26 expiration of approved personal or medical leave, or both, shall be
27 considered a voluntary resignation. After a temporary job assignment,
28 failure of an individual to affirmatively request an additional assignment
29 on the next succeeding workday, if required by the employment
30 agreement, after completion of a given work assignment, shall constitute
31 leaving work voluntarily. The disqualification shall begin the day
32 following the separation and shall continue until after the individual has
33 become reemployed and has had earnings from insured work of at least
34 three times the individual's weekly benefit amount. An individual shall not
35 be disqualified under this subsection if:

36 (1) The individual was forced to leave work because of illness or
37 injury upon the advice of a licensed and practicing health care provider
38 and, upon learning of the necessity for absence, immediately notified the
39 employer thereof, or the employer consented to the absence, and after
40 recovery from the illness or injury, when recovery was certified by a
41 practicing health care provider, the individual returned to the employer and
42 offered to perform services and the individual's regular work or
43 comparable and suitable work was not available. As used in this paragraph

1 "health care provider" means any person licensed by the proper licensing
2 authority of any state to engage in the practice of medicine and surgery,
3 osteopathy, chiropractic, dentistry, optometry, podiatry or psychology;

4 (2) the individual left temporary work to return to the regular
5 employer;

6 (3) the individual left work to enlist in the armed forces of the United
7 States, but was rejected or delayed from entry;

8 (4) the spouse of an individual who is a member of the armed forces
9 of the United States who left work because of the voluntary or involuntary
10 transfer of the individual's spouse from one job to another job, which is for
11 the same employer or for a different employer, at a geographic location
12 which makes it unreasonable for the individual to continue work at the
13 individual's job. For the purposes of this provision the term "armed forces"
14 means active duty in the army, navy, marine corps, air force, coast guard or
15 any branch of the military reserves of the United States;

16 (5) the individual left work because of hazardous working conditions;
17 in determining whether or not working conditions are hazardous for an
18 individual, the degree of risk involved to the individual's health, safety and
19 morals, the individual's physical fitness and prior training and the working
20 conditions of workers engaged in the same or similar work for the same
21 and other employers in the locality shall be considered; as used in this
22 paragraph, "hazardous working conditions" means working conditions that
23 could result in a danger to the physical or mental well-being of the
24 individual; each determination as to whether hazardous working
25 conditions exist shall include, but shall not be limited to, a consideration
26 of: (A) The safety measures used or the lack thereof; and (B) the condition
27 of equipment or lack of proper equipment; no work shall be considered
28 hazardous if the working conditions surrounding the individual's work are
29 the same or substantially the same as the working conditions generally
30 prevailing among individuals performing the same or similar work for
31 other employers engaged in the same or similar type of activity;

32 (6) the individual left work to enter training approved under section
33 236(a)(1) of the federal trade act of 1974, provided the work left is not of a
34 substantially equal or higher skill level than the individual's past adversely
35 affected employment, as defined for purposes of the federal trade act of
36 1974, and wages for such work are not less than 80% of the individual's
37 average weekly wage as determined for the purposes of the federal trade
38 act of 1974;

39 (7) the individual left work because of unwelcome harassment of the
40 individual by the employer or another employee of which the employing
41 unit had knowledge and that would impel the average worker to give up
42 such worker's employment;

43 (8) the individual left work to accept better work; each determination

1 as to whether or not the work accepted is better work shall include, but
 2 shall not be limited to, consideration of:

3 (A) The rate of pay, the hours of work and the probable permanency
 4 of the work left as compared to the work accepted;

5 (B) the cost to the individual of getting to the work left in comparison
 6 to the cost of getting to the work accepted; and

7 (C) the distance from the individual's place of residence to the work
 8 accepted in comparison to the distance from the individual's residence to
 9 the work left;

10 (9) the individual left work as a result of being instructed or requested
 11 by the employer, a supervisor or a fellow employee to perform a service or
 12 commit an act in the scope of official job duties which is in violation of an
 13 ordinance or statute;

14 (10) the individual left work because of a substantial violation of the
 15 work agreement by the employing unit and, before the individual left, the
 16 individual had exhausted all remedies provided in such agreement for the
 17 settlement of disputes before terminating. For the purposes of this
 18 paragraph, a demotion based on performance does not constitute a
 19 violation of the work agreement;

20 (11) after making reasonable efforts to preserve the work, the
 21 individual left work due to a personal emergency of such nature and
 22 compelling urgency that it would be contrary to good conscience to
 23 impose a disqualification; or

24 (12) (A) the individual left work due to circumstances resulting from
 25 domestic violence, including:

26 (i) The individual's reasonable fear of future domestic violence at or
 27 en route to or from the individual's place of employment;

28 (ii) the individual's need to relocate to another geographic area in
 29 order to avoid future domestic violence;

30 (iii) the individual's need to address the physical, psychological and
 31 legal impacts of domestic violence;

32 (iv) the individual's need to leave employment as a condition of
 33 receiving services or shelter from an agency which provides support
 34 services or shelter to victims of domestic violence; or

35 (v) the individual's reasonable belief that termination of employment
 36 is necessary to avoid other situations which may cause domestic violence
 37 and to provide for the future safety of the individual or the individual's
 38 family.

39 (B) An individual may prove the existence of domestic violence by
 40 providing one of the following:

41 (i) A restraining order or other documentation of equitable relief by a
 42 court of competent jurisdiction;

43 (ii) a police record documenting the abuse;

1 (iii) documentation that the abuser has been convicted of one or more
 2 of the offenses enumerated in articles 34 and 35 of chapter 21 of the
 3 Kansas Statutes Annotated, prior to their repeal, or articles 54 or 55 of
 4 chapter 21 of the Kansas Statutes Annotated, or K.S.A. 2020 Supp. 21-
 5 6104, 21-6325, 21-6326 or 21-6418 through 21-6422, and amendments
 6 thereto, where the victim was a family or household member;

7 (iv) medical documentation of the abuse;

8 (v) a statement provided by a counselor, social worker, health care
 9 provider, clergy, shelter worker, legal advocate, domestic violence or
 10 sexual assault advocate or other professional who has assisted the
 11 individual in dealing with the effects of abuse on the individual or the
 12 individual's family; or

13 (vi) a sworn statement from the individual attesting to the abuse.

14 (C) No evidence of domestic violence experienced by an individual,
 15 including the individual's statement and corroborating evidence, shall be
 16 disclosed by the department of labor unless consent for disclosure is given
 17 by the individual.

18 (b) If the individual has been discharged or suspended for misconduct
 19 connected with the individual's work. The disqualification shall begin the
 20 day following the separation and shall continue until after the individual
 21 becomes reemployed and in cases where the disqualification is due to
 22 discharge for misconduct has had earnings from insured work of at least
 23 three times the individual's determined weekly benefit amount, except that
 24 if an individual is discharged for gross misconduct connected with the
 25 individual's work, such individual shall be disqualified for benefits until
 26 such individual again becomes employed and has had earnings from
 27 insured work of at least eight times such individual's determined weekly
 28 benefit amount. In addition, all wage credits attributable to the
 29 employment from which the individual was discharged for gross
 30 misconduct connected with the individual's work shall be canceled. No
 31 such cancellation of wage credits shall affect prior payments made as a
 32 result of a prior separation.

33 (1) (A) For the purposes of this subsection, "misconduct" is defined as
 34 a violation of a duty or obligation reasonably owed the employer as a
 35 condition of employment including, but not limited to, a violation of a
 36 company rule, including a safety rule, if:

37 ~~(A)~~(i) The individual knew or should have known about the rule;

38 ~~(B)~~(ii) the rule was lawful and reasonably related to the job; and

39 ~~(C)~~(iii) the rule was fairly and consistently enforced.

40 (B) *The term "misconduct" does not include any violation of a duty,*
 41 *obligation or company rule, if:*

42 (i) *The individual is a registered patient pursuant to section 8, and*
 43 *amendments thereto; and*

1 (ii) *the basis for the violation is the possession of an identification*
 2 *card issued under section 8, and amendments thereto, or the possession or*
 3 *use of medical marijuana in accordance with the Kansas medical*
 4 *marijuana regulation act, section 1 et seq., and amendments thereto.*

5 (2) (A) Failure of the employee to notify the employer of an absence
 6 and an individual's leaving work prior to the end of such individual's
 7 assigned work period without permission shall be considered prima facie
 8 evidence of a violation of a duty or obligation reasonably owed the
 9 employer as a condition of employment.

10 (B) For the purposes of this subsection, misconduct shall include, but
 11 not be limited to, violation of the employer's reasonable attendance
 12 expectations if the facts show:

13 (i) The individual was absent or tardy without good cause;

14 (ii) the individual had knowledge of the employer's attendance
 15 expectation; and

16 (iii) the employer gave notice to the individual that future absence or
 17 tardiness may or will result in discharge.

18 (C) For the purposes of this subsection, if an employee disputes being
 19 absent or tardy without good cause, the employee shall present evidence
 20 that a majority of the employee's absences or tardiness were for good
 21 cause. If the employee alleges that the employee's repeated absences or
 22 tardiness were the result of health related issues, such evidence shall
 23 include documentation from a licensed and practicing health care provider
 24 as defined in subsection (a)(1).

25 (3) (A) (i) The term "gross misconduct" as used in this subsection
 26 shall be construed to mean conduct evincing extreme, willful or wanton
 27 misconduct as defined by this subsection. Gross misconduct shall include,
 28 but not be limited to:

29 ~~(i)~~(a) Theft;

30 ~~(ii)~~(b) fraud;

31 ~~(iii)~~(c) intentional damage to property;

32 ~~(iv)~~(d) intentional infliction of personal injury; or

33 ~~(v)~~(e) any conduct that constitutes a felony.

34 (ii) *The term "gross misconduct" does not include any conduct of an*
 35 *individual, if:*

36 (a) *The individual is a registered patient pursuant to section 8, and*
 37 *amendments thereto; and*

38 (b) *the basis for such conduct is the possession of an identification*
 39 *card issued under section 8, and amendments thereto, or the possession or*
 40 *use of medical marijuana in accordance with the Kansas medical*
 41 *marijuana regulation act, section 1 et seq., and amendments thereto.*

42 (B) For the purposes of this subsection, the following shall be
 43 conclusive evidence of gross misconduct:

1 (i) The use of alcoholic liquor, cereal malt beverage or a
2 nonprescribed controlled substance by an individual while working;

3 (ii) the impairment caused by alcoholic liquor, cereal malt beverage
4 or a nonprescribed controlled substance by an individual while working;

5 (iii) a positive breath alcohol test or a positive chemical test,
6 provided:

7 (a) The test was either:

8 (1) Required by law and was administered pursuant to the drug free
9 workplace act, 41 U.S.C. § 701 et seq.;

10 (2) administered as part of an employee assistance program or other
11 drug or alcohol treatment program in which the employee was
12 participating voluntarily or as a condition of further employment;

13 (3) requested pursuant to a written policy of the employer of which
14 the employee had knowledge and was a required condition of
15 employment;

16 (4) required by law and the test constituted a required condition of
17 employment for the individual's job; or

18 (5) there was reasonable suspicion to believe that the individual used,
19 had possession of, or was impaired by alcoholic liquor, cereal malt
20 beverage or a nonprescribed controlled substance while working;

21 (b) the test sample was collected either:

22 (1) As prescribed by the drug free workplace act, 41 U.S.C. § 701 et
23 seq.;

24 (2) as prescribed by an employee assistance program or other drug or
25 alcohol treatment program in which the employee was participating
26 voluntarily or as a condition of further employment;

27 (3) as prescribed by the written policy of the employer of which the
28 employee had knowledge and which constituted a required condition of
29 employment;

30 (4) as prescribed by a test which was required by law and which
31 constituted a required condition of employment for the individual's job; or

32 (5) at a time contemporaneous with the events establishing probable
33 cause;

34 (c) the collecting and labeling of a chemical test sample was
35 performed by a licensed health care professional or any other individual
36 certified pursuant to paragraph—~~(b)(3)(A)(iii)(f)~~ *(b)(3)(B)(iii)(f)*
37 or authorized to collect or label test samples by federal or state law, or a
38 federal or state rule or regulation having the force or effect of law,
39 including law enforcement personnel;

40 (d) the chemical test was performed by a laboratory approved by the
41 United States department of health and human services or licensed by the
42 department of health and environment, except that a blood sample may be
43 tested for alcohol content by a laboratory commonly used for that purpose

1 by state law enforcement agencies;

2 (e) the chemical test was confirmed by gas chromatography, gas
3 chromatography-mass spectroscopy or other comparably reliable
4 analytical method, except that no such confirmation is required for a blood
5 alcohol sample or a breath alcohol test;

6 (f) the breath alcohol test was administered by an individual trained
7 to perform breath tests, the breath testing instrument used was certified
8 and operated strictly according to a description provided by the
9 manufacturers and the reliability of the instrument performance was
10 assured by testing with alcohol standards; and

11 (g) the foundation evidence establishes, beyond a reasonable doubt,
12 that the test results were from the sample taken from the individual;

13 (iv) an individual's refusal to submit to a chemical test or breath
14 alcohol test, provided:

15 (a) The test meets the standards of the drug free workplace act, 41
16 U.S.C. § 701 et seq.;

17 (b) the test was administered as part of an employee assistance
18 program or other drug or alcohol treatment program in which the
19 employee was participating voluntarily or as a condition of further
20 employment;

21 (c) the test was otherwise required by law and the test constituted a
22 required condition of employment for the individual's job;

23 (d) the test was requested pursuant to a written policy of the employer
24 of which the employee had knowledge and was a required condition of
25 employment; or

26 (e) there was reasonable suspicion to believe that the individual used,
27 possessed or was impaired by alcoholic liquor, cereal malt beverage or a
28 nonprescribed controlled substance while working; *or*

29 (v) an individual's dilution or other tampering of a chemical test.

30 (C) For purposes of this subsection:

31 (i) "Alcohol concentration" means the number of grams of alcohol
32 per 210 liters of breath;

33 (ii) "alcoholic liquor" ~~shall be defined~~ *means the same* as provided in
34 K.S.A. 41-102, and amendments thereto;

35 (iii) "cereal malt beverage" ~~shall be defined~~ *means the same* as
36 provided in K.S.A. 41-2701, and amendments thereto;

37 (iv) "chemical test" ~~shall include~~ *includes*, but is not limited to, tests
38 of urine, blood or saliva;

39 (v) "controlled substance" ~~shall be defined~~ *means the same* as
40 provided in K.S.A. 2020 Supp. 21-5701, and amendments thereto;

41 (vi) "required by law" means required by a federal or state law, a
42 federal or state rule or regulation having the force and effect of law, a
43 county resolution or municipal ordinance, or a policy relating to public

1 safety adopted in an open meeting by the governing body of any special
2 district or other local governmental entity;

3 (vii) "positive breath test"~~shall mean~~ means a test result showing an
4 alcohol concentration of 0.04 or greater, or the levels listed in 49 C.F.R.
5 part 40, if applicable, unless the test was administered as part of an
6 employee assistance program or other drug or alcohol treatment program
7 in which the employee was participating voluntarily or as a condition of
8 further employment, in which case "positive chemical test"~~shall mean~~
9 means a test result showing an alcohol concentration at or above the levels
10 provided for in the assistance or treatment program;

11 (viii) "positive chemical test"~~shall mean~~ means a chemical result
12 showing a concentration at or above the levels listed in K.S.A. 44-501, and
13 amendments thereto, or 49 C.F.R. part 40, as applicable, for the drugs or
14 abuse listed therein, unless the test was administered as part of an
15 employee assistance program or other drug or alcohol treatment program
16 in which the employee was participating voluntarily or as a condition of
17 further employment, in which case "positive chemical test"~~shall mean~~
18 means a chemical result showing a concentration at or above the levels
19 provided for in the assistance or treatment program.

20 (4) An individual shall not be disqualified under this subsection if the
21 individual is discharged under the following circumstances:

22 (A) The employer discharged the individual after learning the
23 individual was seeking other work or when the individual gave notice of
24 future intent to quit, except that the individual shall be disqualified after
25 the time at which such individual intended to quit and any individual who
26 commits misconduct after such individual gives notice to such individual's
27 intent to quit shall be disqualified;

28 (B) the individual was making a good-faith effort to do the assigned
29 work but was discharged due to:

- 30 (i) Inefficiency;
- 31 (ii) unsatisfactory performance due to inability, incapacity or lack of
32 training or experience;
- 33 (iii) isolated instances of ordinary negligence or inadvertence;
- 34 (iv) ~~good-faith~~ good faith errors in judgment or discretion; or
- 35 (v) unsatisfactory work or conduct due to circumstances beyond the
36 individual's control; or

37 (C) the individual's refusal to perform work in excess of the contract
38 of hire.

39 (e) If the individual has failed, without good cause, to either apply for
40 suitable work when so directed by the employment office of the secretary
41 of labor, or to accept suitable work when offered to the individual by the
42 employment office, the secretary of labor, or an employer, such
43 disqualification shall begin with the week in which such failure occurred

1 and shall continue until the individual becomes reemployed and has had
2 earnings from insured work of at least three times such individual's
3 determined weekly benefit amount. In determining whether or not any
4 work is suitable for an individual, the secretary of labor, or a person or
5 persons designated by the secretary, shall consider the degree of risk
6 involved to health, safety and morals, physical fitness and prior training,
7 experience and prior earnings, length of unemployment and prospects for
8 securing local work in the individual's customary occupation or work for
9 which the individual is reasonably fitted by training or experience, and the
10 distance of the available work from the individual's residence.
11 Notwithstanding any other provisions of this act, an otherwise eligible
12 individual shall not be disqualified for refusing an offer of suitable
13 employment, or failing to apply for suitable employment when notified by
14 an employment office, or for leaving the individual's most recent work
15 accepted during approved training, including training approved under
16 section 236(a)(1) of the trade act of 1974, if the acceptance of or applying
17 for suitable employment or continuing such work would require the
18 individual to terminate approved training and no work shall be deemed
19 suitable and benefits shall not be denied under this act to any otherwise
20 eligible individual for refusing to accept new work under any of the
21 following conditions:

22 (1) If the position offered is vacant due directly to a strike, lockout or
23 other labor dispute;

24 (2) if the remuneration, hours or other conditions of the work offered
25 are substantially less favorable to the individual than those prevailing for
26 similar work in the locality;

27 (3) if as a condition of being employed, the individual would be
28 required to join or to resign from or refrain from joining any labor
29 organization; and

30 (4) if the individual left employment as a result of domestic violence,
31 and the position offered does not reasonably accommodate the individual's
32 physical, psychological, safety, or legal needs relating to such domestic
33 violence.

34 (d) For any week with respect to which the secretary of labor, or a
35 person or persons designated by the secretary, finds that the individual's
36 unemployment is due to a stoppage of work which exists because of a
37 labor dispute or there would have been a work stoppage had normal
38 operations not been maintained with other personnel previously and
39 currently employed by the same employer at the factory, establishment or
40 other premises at which the individual is or was last employed, except that
41 this subsection (d) shall not apply if it is shown to the satisfaction of the
42 secretary of labor, or a person or persons designated by the secretary, that:

43 (1) The individual is not participating in or financing or directly

1 interested in the labor dispute which caused the stoppage of work; and

2 (2) the individual does not belong to a grade or class of workers of
3 which, immediately before the commencement of the stoppage, there were
4 members employed at the premises at which the stoppage occurs any of
5 whom are participating in or financing or directly interested in the dispute.
6 If in any case separate branches of work which are commonly conducted
7 as separate businesses in separate premises are conducted in separate
8 departments of the same premises, each such department shall, for the
9 purpose of this subsection be deemed to be a separate factory,
10 establishment or other premises. For the purposes of this subsection,
11 failure or refusal to cross a picket line or refusal for any reason during the
12 continuance of such labor dispute to accept the individual's available and
13 customary work at the factory, establishment or other premises where the
14 individual is or was last employed shall be considered as participation and
15 interest in the labor dispute.

16 (e) For any week with respect to which or a part of which the
17 individual has received or is seeking unemployment benefits under the
18 unemployment compensation law of any other state or of the United
19 States, except that if the appropriate agency of such other state or the
20 United States finally determines that the individual is not entitled to such
21 unemployment benefits, this disqualification shall not apply.

22 (f) For any week with respect to which the individual is entitled to
23 receive any unemployment allowance or compensation granted by the
24 United States under an act of congress to ex-service men and women in
25 recognition of former service with the military or naval services of the
26 United States.

27 (g) For the period of five years beginning with the first day following
28 the last week of unemployment for which the individual received benefits,
29 or for five years from the date the act was committed, whichever is the
30 later, if the individual, or another in such individual's behalf with the
31 knowledge of the individual, has knowingly made a false statement or
32 representation, or has knowingly failed to disclose a material fact to obtain
33 or increase benefits under this act or any other unemployment
34 compensation law administered by the secretary of labor. In addition to the
35 penalties set forth in K.S.A. 44-719, and amendments thereto, an
36 individual who has knowingly made a false statement or representation or
37 who has knowingly failed to disclose a material fact to obtain or increase
38 benefits under this act or any other unemployment compensation law
39 administered by the secretary of labor shall be liable for a penalty in the
40 amount equal to 25% of the amount of benefits unlawfully received.
41 Notwithstanding any other provision of law, such penalty shall be
42 deposited into the employment security trust fund.

43 (h) For any week with respect to which the individual is receiving

1 compensation for temporary total disability or permanent total disability
2 under the workmen's compensation law of any state or under a similar law
3 of the United States.

4 (i) For any week of unemployment on the basis of service in an
5 instructional, research or principal administrative capacity for an
6 educational institution as defined in K.S.A. 44-703(v), and amendments
7 thereto, if such week begins during the period between two successive
8 academic years or terms or, when an agreement provides instead for a
9 similar period between two regular but not successive terms during such
10 period or during a period of paid sabbatical leave provided for in the
11 individual's contract, if the individual performs such services in the first of
12 such academic years or terms and there is a contract or a reasonable
13 assurance that such individual will perform services in any such capacity
14 for any educational institution in the second of such academic years or
15 terms.

16 (j) For any week of unemployment on the basis of service in any
17 capacity other than service in an instructional, research, or administrative
18 capacity in an educational institution, as defined in K.S.A. 44-703(v), and
19 amendments thereto, if such week begins during the period between two
20 successive academic years or terms if the individual performs such
21 services in the first of such academic years or terms and there is a
22 reasonable assurance that the individual will perform such services in the
23 second of such academic years or terms, except that if benefits are denied
24 to the individual under this subsection and the individual was not offered
25 an opportunity to perform such services for the educational institution for
26 the second of such academic years or terms, such individual shall be
27 entitled to a retroactive payment of benefits for each week for which the
28 individual filed a timely claim for benefits and for which benefits were
29 denied solely by reason of this subsection.

30 (k) For any week of unemployment on the basis of service in any
31 capacity for an educational institution as defined in K.S.A. 44-703(v), and
32 amendments thereto, if such week begins during an established and
33 customary vacation period or holiday recess, if the individual performs
34 services in the period immediately before such vacation period or holiday
35 recess and there is a reasonable assurance that such individual will perform
36 such services in the period immediately following such vacation period or
37 holiday recess.

38 (l) For any week of unemployment on the basis of any services,
39 substantially all of which consist of participating in sports or athletic
40 events or training or preparing to so participate, if such week begins during
41 the period between two successive sport seasons or similar period if such
42 individual performed services in the first of such seasons or similar periods
43 and there is a reasonable assurance that such individual will perform such

1 services in the later of such seasons or similar periods.

2 (m) For any week on the basis of services performed by an alien
3 unless such alien is an individual who was lawfully admitted for
4 permanent residence at the time such services were performed, was
5 lawfully present for purposes of performing such services, or was
6 permanently residing in the United States under color of law at the time
7 such services were performed, including an alien who was lawfully present
8 in the United States as a result of the application of the provisions of
9 section 212(d)(5) of the federal immigration and nationality act. Any data
10 or information required of individuals applying for benefits to determine
11 whether benefits are not payable to them because of their alien status shall
12 be uniformly required from all applicants for benefits. In the case of an
13 individual whose application for benefits would otherwise be approved, no
14 determination that benefits to such individual are not payable because of
15 such individual's alien status shall be made except upon a preponderance
16 of the evidence.

17 (n) For any week in which an individual is receiving a governmental
18 or other pension, retirement or retired pay, annuity or other similar
19 periodic payment under a plan maintained by a base period employer and
20 to which the entire contributions were provided by such employer, except
21 that: (1) If the entire contributions to such plan were provided by the base
22 period employer but such individual's weekly benefit amount exceeds such
23 governmental or other pension, retirement or retired pay, annuity or other
24 similar periodic payment attributable to such week, the weekly benefit
25 amount payable to the individual shall be reduced, but not below zero, by
26 an amount equal to the amount of such pension, retirement or retired pay,
27 annuity or other similar periodic payment which is attributable to such
28 week; ~~or~~ (2) if only a portion of contributions to such plan were provided
29 by the base period employer, the weekly benefit amount payable to such
30 individual for such week shall be reduced, but not below zero, by the
31 prorated weekly amount of the pension, retirement or retired pay, annuity
32 or other similar periodic payment after deduction of that portion of the
33 pension, retirement or retired pay, annuity or other similar periodic
34 payment that is directly attributable to the percentage of the contributions
35 made to the plan by such individual; ~~or~~ (3) if the entire contributions to the
36 plan were provided by such individual, or by the individual and an
37 employer, or any person or organization, who is not a base period
38 employer, no reduction in the weekly benefit amount payable to the
39 individual for such week shall be made under this subsection; or (4)
40 whatever portion of contributions to such plan were provided by the base
41 period employer, if the services performed for the employer by such
42 individual during the base period, or remuneration received for the
43 services, did not affect the individual's eligibility for, or increased the

1 amount of, such pension, retirement or retired pay, annuity or other similar
2 periodic payment, no reduction in the weekly benefit amount payable to
3 the individual for such week shall be made under this subsection. No
4 reduction shall be made for payments made under the social security act or
5 railroad retirement act of 1974.

6 (o) For any week of unemployment on the basis of services
7 performed in any capacity and under any of the circumstances described in
8 subsection (i), (j) or (k)—~~which~~ *that* an individual performed in an
9 educational institution while in the employ of an educational service
10 agency. For the purposes of this subsection, the term "educational service
11 agency" means a governmental agency or entity which is established and
12 operated exclusively for the purpose of providing such services to one or
13 more educational institutions.

14 (p) For any week of unemployment on the basis of service as a school
15 bus or other motor vehicle driver employed by a private contractor to
16 transport pupils, students and school personnel to or from school-related
17 functions or activities for an educational institution, as defined in K.S.A.
18 44-703(v), and amendments thereto, if such week begins during the period
19 between two successive academic years or during a similar period between
20 two regular terms, whether or not successive, if the individual has a
21 contract or contracts, or a reasonable assurance thereof, to perform
22 services in any such capacity with a private contractor for any educational
23 institution for both such academic years or both such terms. An individual
24 shall not be disqualified for benefits as provided in this subsection for any
25 week of unemployment on the basis of service as a bus or other motor
26 vehicle driver employed by a private contractor to transport persons to or
27 from nonschool-related functions or activities.

28 (q) For any week of unemployment on the basis of services
29 performed by the individual in any capacity and under any of the
30 circumstances described in subsection (i), (j), (k) or (o)—~~which~~ *that* are
31 provided to or on behalf of an educational institution, as defined in K.S.A.
32 44-703(v), and amendments thereto, while the individual is in the employ
33 of an employer which is a governmental entity, Indian tribe or any
34 employer described in section 501(c)(3) of the federal internal revenue
35 code of 1986 which is exempt from income under section 501(a) of the
36 code.

37 (r) For any week in which an individual is registered at and attending
38 an established school, training facility or other educational institution, or is
39 on vacation during or between two successive academic years or terms. An
40 individual shall not be disqualified for benefits as provided in this
41 subsection provided:

42 (1) The individual was engaged in full-time employment concurrent
43 with the individual's school attendance;

1 (2) the individual is attending approved training as defined in K.S.A.
2 44-703(s), and amendments thereto; or

3 (3) the individual is attending evening, weekend or limited day time
4 classes, which would not affect availability for work, and is otherwise
5 eligible under K.S.A. 44-705(c), and amendments thereto.

6 (s) For any week with respect to which an individual is receiving or
7 has received remuneration in the form of a back pay award or settlement.
8 The remuneration shall be allocated to the week or weeks in the manner as
9 specified in the award or agreement, or in the absence of such specificity
10 in the award or agreement, such remuneration shall be allocated to the
11 week or weeks in which such remuneration, in the judgment of the
12 secretary, would have been paid.

13 (1) For any such weeks that an individual receives remuneration in
14 the form of a back pay award or settlement, an overpayment will be
15 established in the amount of unemployment benefits paid and shall be
16 collected from the claimant.

17 (2) If an employer chooses to withhold from a back pay award or
18 settlement, amounts paid to a claimant while they claimed unemployment
19 benefits, such employer shall pay the department the amount withheld.
20 With respect to such amount, the secretary shall have available all of the
21 collection remedies authorized or provided in K.S.A. 44-717, and
22 amendments thereto.

23 (t) (1) Any applicant for or recipient of unemployment benefits who
24 tests positive for unlawful use of a controlled substance or controlled
25 substance analog shall be required to complete a substance abuse treatment
26 program approved by the secretary of labor, secretary of commerce or
27 secretary for children and families, and a job skills program approved by
28 the secretary of labor, secretary of commerce or the secretary for children
29 and families. Subject to applicable federal laws, any applicant for or
30 recipient of unemployment benefits who fails to complete or refuses to
31 participate in the substance abuse treatment program or job skills program
32 as required under this subsection shall be ineligible to receive
33 unemployment benefits until completion of such substance abuse
34 treatment and job skills programs. Upon completion of both substance
35 abuse treatment and job skills programs, such applicant for or recipient of
36 unemployment benefits may be subject to periodic drug screening, as
37 determined by the secretary of labor. Upon a second positive test for
38 unlawful use of a controlled substance or controlled substance analog, an
39 applicant for or recipient of unemployment benefits shall be ordered to
40 complete again a substance abuse treatment program and job skills
41 program, and shall be terminated from unemployment benefits for a period
42 of 12 months, or until such applicant for or recipient of unemployment
43 benefits completes both substance abuse treatment and job skills programs,

1 whichever is later. Upon a third positive test for unlawful use of a
2 controlled substance or controlled substance analog, an applicant for or a
3 recipient of unemployment benefits shall be terminated from receiving
4 unemployment benefits, subject to applicable federal law.

5 (2) Any individual who has been discharged or refused employment
6 for failing a preemployment drug screen required by an employer may
7 request that the drug screening specimen be sent to a different drug testing
8 facility for an additional drug screening. Any such individual who requests
9 an additional drug screening at a different drug testing facility shall be
10 required to pay the cost of drug screening.

11 (3) *The provisions of this subsection shall not apply to any individual*
12 *who is a registered patient pursuant to section 8, and amendments thereto,*
13 *for activities authorized by the Kansas medical marijuana regulation act,*
14 *section 1 et seq., and amendments thereto.*

15 (u) If the individual was found not to have a disqualifying
16 adjudication or conviction under K.S.A. 39-970 or 65-5117, and
17 amendments thereto, was hired and then was subsequently convicted of a
18 disqualifying felony under K.S.A. 39-970 or 65-5117, and amendments
19 thereto, and discharged pursuant to K.S.A. 39-970 or 65-5117, and
20 amendments thereto. The disqualification shall begin the day following the
21 separation and shall continue until after the individual becomes
22 reemployed and has had earnings from insured work of at least three times
23 the individual's determined weekly benefit amount.

24 (v) Notwithstanding the provisions of any subsection, an individual
25 shall not be disqualified for such week of part-time employment in a
26 substitute capacity for an educational institution if such individual's most
27 recent employment prior to the individual's benefit year begin date was for
28 a non-educational institution and such individual demonstrates application
29 for work in such individual's customary occupation or for work for which
30 the individual is reasonably fitted by training or experience.

31 Sec. 81. On and after July 1, 2023, K.S.A. 44-1009 is hereby
32 amended to read as follows: 44-1009. (a) It shall be an unlawful
33 employment practice:

34 (1) For an employer, because of the race, religion, color, sex,
35 disability, national origin or ancestry of any person to refuse to hire or
36 employ such person to bar or discharge such person from employment or
37 to otherwise discriminate against such person in compensation or in terms,
38 conditions or privileges of employment; to limit, segregate, separate,
39 classify or make any distinction in regards to employees; or to follow any
40 employment procedure or practice which, in fact, results in discrimination,
41 segregation or separation without a valid business necessity.

42 (2) For a labor organization, because of the race, religion, color, sex,
43 disability, national origin or ancestry of any person, to exclude or to expel

1 from its membership such person or to discriminate in any way against any
2 of its members or against any employer or any person employed by an
3 employer.

4 (3) For any employer, employment agency or labor organization to
5 print or circulate or cause to be printed or circulated any statement,
6 advertisement or publication, or to use any form of application for
7 employment or membership or to make any inquiry in connection with
8 prospective employment or membership, which expresses, directly or
9 indirectly, any limitation, specification or discrimination as to race,
10 religion, color, sex, disability, national origin or ancestry, or any intent to
11 make any such limitation, specification or discrimination, unless based on
12 a bona fide occupational qualification.

13 (4) For any employer, employment agency or labor organization to
14 discharge, expel or otherwise discriminate against any person because such
15 person has opposed any practices or acts forbidden under this act or
16 because such person has filed a complaint, testified or assisted in any
17 proceeding under this act.

18 (5) For an employment agency to refuse to list and properly classify
19 for employment or to refuse to refer any person for employment or
20 otherwise discriminate against any person because of such person's race,
21 religion, color, sex, disability, national origin or ancestry; or to comply
22 with a request from an employer for a referral of applicants for
23 employment if the request expresses, either directly or indirectly, any
24 limitation, specification or discrimination as to race, religion, color, sex,
25 disability, national origin or ancestry.

26 (6) For an employer, labor organization, employment agency, or
27 school which provides, coordinates or controls apprenticeship, on-the-job,
28 or other training or retraining program, to maintain a practice of
29 discrimination, segregation or separation because of race, religion, color,
30 sex, disability, national origin or ancestry, in admission, hiring,
31 assignments, upgrading, transfers, promotion, layoff, dismissal,
32 apprenticeship or other training or retraining program, or in any other
33 terms, conditions or privileges of employment, membership,
34 apprenticeship or training; or to follow any policy or procedure which, in
35 fact, results in such practices without a valid business motive.

36 (7) For any person, whether an employer or an employee or not, to
37 aid, abet, incite, compel or coerce the doing of any of the acts forbidden
38 under this act, or attempt to do so.

39 (8) For an employer, labor organization, employment agency or joint
40 labor-management committee to:

41 (A) Limit, segregate or classify a job applicant or employee in a way
42 that adversely affects the opportunities or status of such applicant or
43 employee because of the disability of such applicant or employee;

1 (B) participate in a contractual or other arrangement or relationship,
2 including a relationship with an employment or referral agency, labor
3 union, an organization providing fringe benefits to an employee or an
4 organization providing training and apprenticeship programs that has the
5 effect of subjecting a qualified applicant or employee with a disability to
6 the discrimination prohibited by this act;

7 (C) utilize standards criteria, or methods of administration that have
8 the effect of discrimination on the basis of disability or that perpetuate the
9 discrimination of others who are subject to common administrative
10 control;

11 (D) exclude or otherwise deny equal jobs or benefits to a qualified
12 individual because of the known disability of an individual with whom the
13 qualified individual is known to have a relationship or association;

14 (E) not make reasonable accommodations to the known physical or
15 mental limitations of an otherwise qualified individual with a disability
16 who is an applicant or employee, unless such employer, labor organization,
17 employment agency or joint labor-management committee can
18 demonstrate that the accommodation would impose an undue hardship on
19 the operation of the business thereof;

20 (F) deny employment opportunities to a job applicant or employee
21 who is an otherwise qualified individual with a disability, if such denial is
22 based on the need to make reasonable accommodation to the physical or
23 mental impairments of the employee or applicant;

24 (G) use qualification standards, employment tests or other selection
25 criteria that screen out or tend to screen out an individual with a disability
26 or a class of individuals with disabilities unless the standard, test or other
27 selection criteria, as used, is shown to be job-related for the position in
28 question and is consistent with business necessity; or

29 (H) fail to select and administer tests concerning employment in the
30 most effective manner to ensure that, when such test is administered to a
31 job applicant or employee who has a disability that impairs sensory,
32 manual or speaking skills, the test results accurately reflect the skills,
33 aptitude or whatever other factor of such applicant or employee that such
34 test purports to measure, rather than reflecting the impaired sensory,
35 manual or speaking skills of such employee or applicant~~(, except where~~
36 such skills are the factors that the test purports to measure).

37 (9) For any employer to:

38 (A) Seek to obtain, to obtain or to use genetic screening or testing
39 information of an employee or a prospective employee to distinguish
40 between or discriminate against or restrict any right or benefit otherwise
41 due or available to an employee or a prospective employee; or

42 (B) subject, directly or indirectly, any employee or prospective
43 employee to any genetic screening or test.

1 (10) (A) *For an employer, because a person is a registered patient or*
2 *caregiver pursuant to section 8, and amendments thereto, or possesses or*
3 *uses medical marijuana in accordance with the Kansas medical marijuana*
4 *regulation act, section 1 et seq., and amendments thereto, to:*

5 (i) *Refuse to hire or employ a person;*

6 (ii) *bar or discharge such person from employment; or*

7 (iii) *otherwise discriminate against such person in compensation or*
8 *in terms, conditions or privileges of employment without a valid business*
9 *necessity.*

10 (B) *For a labor organization, because a person is a registered patient*
11 *or caregiver pursuant to section 8, and amendments thereto, or possesses*
12 *or uses medical marijuana in accordance with the Kansas medical*
13 *marijuana regulation act, section 1 et seq., and amendments thereto, to*
14 *exclude or expel such person from its membership.*

15 (C) *Nothing in this paragraph shall be construed to prohibit a person*
16 *from taking any action necessary to procure or retain any monetary*
17 *benefit provided under federal law, or any rules and regulations adopted*
18 *thereunder, or to obtain or maintain any license, certificate, registration*
19 *or other legal status issued or bestowed under federal law, or any rules*
20 *and regulations adopted thereunder.*

21 (b) *It shall not be an unlawful employment practice to fill vacancies*
22 *in such way as to eliminate or reduce imbalance with respect to race,*
23 *religion, color, sex, disability, national origin or ancestry.*

24 (c) *It shall be an unlawful discriminatory practice:*

25 (1) *For any person, as defined herein being the owner, operator,*
26 *lessee, manager, agent or employee of any place of public accommodation*
27 *to refuse, deny or make a distinction, directly or indirectly, in offering its*
28 *goods, services, facilities, and accommodations to any person as covered*
29 *by this act because of race, religion, color, sex, disability, national origin or*
30 *ancestry, except where a distinction because of sex is necessary because of*
31 *the intrinsic nature of such accommodation.*

32 (2) *For any person, whether or not specifically enjoined from*
33 *discriminating under any provisions of this act, to aid, abet, incite, compel*
34 *or coerce the doing of any of the acts forbidden under this act, or to*
35 *attempt to do so.*

36 (3) *For any person, to refuse, deny, make a distinction, directly or*
37 *indirectly, or discriminate in any way against persons because of the race,*
38 *religion, color, sex, disability, national origin or ancestry of such persons*
39 *in the full and equal use and enjoyment of the services, facilities,*
40 *privileges and advantages of any institution, department or agency of the*
41 *state of Kansas or any political subdivision or municipality thereof.*

42 Sec. 82. On and after July 1, 2023, K.S.A. 44-1015 is hereby
43 amended to read as follows: 44-1015. As used in this act, unless the

1 context otherwise requires:

2 (a) "Commission" means the Kansas human rights commission.

3 (b) "Real property" means and includes:

4 (1) All vacant or unimproved land; and

5 (2) any building or structure ~~which~~ *that* is occupied or designed or
6 intended for occupancy, or any building or structure having a portion
7 thereof ~~which~~ *that* is occupied or designed or intended for occupancy.

8 (c) "Family" includes a single individual.

9 (d) "Person" means an individual, corporation, partnership,
10 association, labor organization, legal representative, mutual company,
11 joint-stock company, trust, unincorporated organization, trustee, trustee in
12 bankruptcy, receiver and fiduciary.

13 (e) "To rent" means to lease, to sublease, to let and otherwise to grant
14 for a consideration the right to occupy premises not owned by the
15 occupant.

16 (f) "Discriminatory housing practice" means any act that is unlawful
17 under K.S.A. 44-1016, 44-1017 or 44-1026, and amendments thereto, *or*
18 *section 48, and amendments thereto.*

19 (g) "Person aggrieved" means any person who claims to have been
20 injured by a discriminatory housing practice or believes that such person
21 will be injured by a discriminatory housing practice that is about to occur.

22 (h) "Disability" ~~has the meaning provided by~~ *means the same as*
23 *defined in* K.S.A. 44-1002, and amendments thereto.

24 (i) "Familial status" means having one or more individuals less than
25 18 years of age domiciled with:

26 (1) A parent or another person having legal custody of such
27 individual or individuals; or

28 (2) the designee of such parent or other person having such custody,
29 with the written permission of such parent or other person.

30 Sec. 83. On and after July 1, 2023, K.S.A. 2020 Supp. 65-1120 is
31 hereby amended to read as follows: 65-1120. (a) *Grounds for disciplinary*
32 *actions.* The board may deny, revoke, limit or suspend any license or
33 authorization to practice nursing as a registered professional nurse, as a
34 licensed practical nurse, as an advanced practice registered nurse or as a
35 registered nurse anesthetist that is issued by the board or applied for under
36 this act, or may require the licensee to attend a specific number of hours of
37 continuing education in addition to any hours the licensee may already be
38 required to attend or may publicly or privately censure a licensee or holder
39 of a temporary permit or authorization, if the applicant, licensee or holder
40 of a temporary permit or authorization is found after hearing:

41 (1) To be guilty of fraud or deceit in practicing nursing or in
42 procuring or attempting to procure a license to practice nursing;

43 (2) to have been guilty of a felony or to have been guilty of a

1 misdemeanor involving an illegal drug offense unless the applicant or
2 licensee establishes sufficient rehabilitation to warrant the public trust,
3 except that notwithstanding K.S.A. 74-120, and amendments thereto, no
4 license or authorization to practice nursing as a licensed professional
5 nurse, as a licensed practical nurse, as an advanced practice registered
6 nurse or registered nurse anesthetist shall be granted to a person with a
7 felony conviction for a crime against persons as specified in article 34 of
8 chapter 21 of the Kansas Statutes Annotated, prior to their repeal, or article
9 54 of chapter 21 of the Kansas Statutes Annotated, *and amendments*
10 *thereto*, or K.S.A. 2020 Supp. 21-6104, 21-6325, 21-6326 or 21-6418, and
11 amendments thereto;

12 (3) has been convicted or found guilty or has entered into an agreed
13 disposition of a misdemeanor offense related to the practice of nursing as
14 determined on a case-by-case basis;

15 (4) to have committed an act of professional incompetency as defined
16 in subsection (e);

17 (5) to be unable to practice with skill and safety due to current abuse
18 of drugs or alcohol;

19 (6) to be a person who has been adjudged in need of a guardian or
20 conservator, or both, under the act for obtaining a guardian or conservator,
21 or both, and who has not been restored to capacity under that act;

22 (7) to be guilty of unprofessional conduct as defined by rules and
23 regulations of the board;

24 (8) to have willfully or repeatedly violated the provisions of the
25 Kansas nurse practice act or any rules and regulations adopted pursuant to
26 that act, including K.S.A. 65-1114 and 65-1122, and amendments thereto;

27 (9) to have a license to practice nursing as a registered nurse or as a
28 practical nurse denied, revoked, limited or suspended, or to be publicly or
29 privately censured, by a licensing authority of another state, agency of the
30 United States government, territory of the United States or country or to
31 have other disciplinary action taken against the applicant or licensee by a
32 licensing authority of another state, agency of the United States
33 government, territory of the United States or country. A certified copy of
34 the record or order of public or private censure, denial, suspension,
35 limitation, revocation or other disciplinary action of the licensing authority
36 of another state, agency of the United States government, territory of the
37 United States or country shall constitute prima facie evidence of such a
38 fact for purposes of this paragraph (9); or

39 (10) to have assisted suicide in violation of K.S.A. 21-3406, prior to
40 its repeal, or K.S.A. 2020 Supp. 21-5407, and amendments thereto, as
41 established by any of the following:

42 (A) A copy of the record of criminal conviction or plea of guilty for a
43 felony in violation of K.S.A. 21-3406, prior to its repeal, or K.S.A. 2020

1 Supp. 21-5407, and amendments thereto.

2 (B) A copy of the record of a judgment of contempt of court for
3 violating an injunction issued under K.S.A. 2020 Supp. 60-4404, and
4 amendments thereto.

5 (C) A copy of the record of a judgment assessing damages under
6 K.S.A. 2020 Supp. 60-4405, and amendments thereto.

7 (b) *Proceedings*. Upon filing of a sworn complaint with the board
8 charging a person with having been guilty of any of the unlawful practices
9 specified in subsection (a), two or more members of the board shall
10 investigate the charges, or the board may designate and authorize an
11 employee or employees of the board to conduct an investigation. After
12 investigation, the board may institute charges. If an investigation, in the
13 opinion of the board, reveals reasonable grounds for believing the
14 applicant or licensee is guilty of the charges, the board shall fix a time and
15 place for proceedings, which shall be conducted in accordance with the
16 provisions of the Kansas administrative procedure act.

17 (c) *Witnesses*. No person shall be excused from testifying in any
18 proceedings before the board under this act or in any civil proceedings
19 under this act before a court of competent jurisdiction on the ground that
20 such testimony may incriminate the person testifying, but such testimony
21 shall not be used against the person for the prosecution of any crime under
22 the laws of this state except the crime of perjury as defined in K.S.A. 2020
23 Supp. 21-5903, and amendments thereto.

24 (d) *Costs*. If final agency action of the board in a proceeding under
25 this section is adverse to the applicant or licensee, the costs of the board's
26 proceedings shall be charged to the applicant or licensee as in ordinary
27 civil actions in the district court, but if the board is the unsuccessful party,
28 the costs shall be paid by the board. Witness fees and costs may be taxed
29 by the board according to the statutes relating to procedure in the district
30 court. All costs accrued by the board, when it is the successful party, and
31 ~~which~~ *that* the attorney general certifies cannot be collected from the
32 applicant or licensee shall be paid from the board of nursing fee fund. All
33 moneys collected following board proceedings shall be credited in full to
34 the board of nursing fee fund.

35 (e) *Professional incompetency defined*. As used in this section,
36 "professional incompetency" means:

37 (1) One or more instances involving failure to adhere to the
38 applicable standard of care to a degree ~~which~~ *that* constitutes gross
39 negligence, as determined by the board;

40 (2) repeated instances involving failure to adhere to the applicable
41 standard of care to a degree ~~which~~ *that* constitutes ordinary negligence, as
42 determined by the board; or

43 (3) a pattern of practice or other behavior ~~which~~ *that* demonstrates a

1 manifest incapacity or incompetence to practice nursing.

2 (f) *Criminal justice information.* The board upon request shall receive
3 from the Kansas bureau of investigation such criminal history record
4 information relating to arrests and criminal convictions as necessary for
5 the purpose of determining initial and continuing qualifications of
6 licensees of and applicants for licensure by the board.

7 (g) *Medical marijuana exemption.* *The board shall not deny, revoke,*
8 *limit or suspend an advanced practice registered nurse's license or*
9 *publicly or privately censure an advanced practice registered nurse for*
10 *any of the following:*

11 (1) *The advanced practice registered nurse has:*

12 (A) *Advised a patient about the possible benefits and risks of using*
13 *medical marijuana; or*

14 (B) *advised a patient that using medical marijuana may mitigate the*
15 *patient's symptoms; or*

16 (2) *the advanced practice registered nurse is a registered patient or*
17 *caregiver pursuant to section 8, and amendments thereto, possesses or has*
18 *possessed, or uses or has used medical marijuana in accordance with the*
19 *Kansas medical marijuana regulation act, section 1 et seq., and*
20 *amendments thereto.*

21 Sec. 84. On and after July 1, 2023, K.S.A. 65-28b08 is hereby
22 amended to read as follows: 65-28b08. (a) The board may deny, revoke,
23 limit or suspend any license or authorization issued to a certified nurse-
24 midwife to engage in the independent practice of midwifery that is issued
25 by the board or applied for under this act, or may publicly censure a
26 licensee or holder of a temporary permit or authorization, if the applicant
27 or licensee is found after a hearing:

28 (1) To be guilty of fraud or deceit while engaging in the independent
29 practice of midwifery or in procuring or attempting to procure a license to
30 engage in the independent practice of midwifery;

31 (2) to have been found guilty of a felony or to have been found guilty
32 of a misdemeanor involving an illegal drug offense unless the applicant or
33 licensee establishes sufficient rehabilitation to warrant the public trust,
34 except that notwithstanding K.S.A. 74-120, and amendments thereto, no
35 license or authorization to practice and engage in the independent practice
36 of midwifery shall be granted to a person with a felony conviction for a
37 crime against persons as specified in article 34 of chapter 21 of the Kansas
38 Statutes Annotated, prior to its repeal, or article 54 of chapter 21 of the
39 Kansas Statutes Annotated, and amendments thereto, or K.S.A. 2020 Supp.
40 21-6104, 21-6325, 21-6326 or 21-6418, and amendments thereto;

41 (3) to have committed an act of professional incompetence as defined
42 in subsection (c);

43 (4) to be unable to practice the healing arts with reasonable skill and

1 safety by reason of impairment due to physical or mental illness or
2 condition or use of alcohol, drugs or controlled substances. All
3 information, reports, findings and other records relating to impairment
4 shall be confidential and not subject to discovery or release to any person
5 or entity outside of a board proceeding. The provisions of this paragraph
6 providing confidentiality of records shall expire on July 1, ~~2022~~ 2026,
7 unless the legislature reviews and reenacts such provisions pursuant to
8 K.S.A. 45-229, and amendments thereto, prior to July 1, ~~2022~~ 2026;

9 (5) to be a person who has been adjudged in need of a guardian or
10 conservator, or both, under the act for obtaining a guardian or conservator,
11 or both, and who has not been restored to capacity under that act;

12 (6) to be guilty of unprofessional conduct as defined by rules and
13 regulations of the board;

14 (7) to have willfully or repeatedly violated the provisions of the
15 Kansas nurse practice act or any rules and regulations adopted pursuant to
16 that act;

17 (8) to have a license to practice nursing as a registered nurse or as a
18 practical nurse denied, revoked, limited or suspended, or to have been
19 publicly or privately censured, by a licensing authority of another state,
20 agency of the United States government, territory of the United States or
21 country, or to have other disciplinary action taken against the applicant or
22 licensee by a licensing authority of another state, agency of the United
23 States government, territory of the United States or country. A certified
24 copy of the record or order of public or private censure, denial, suspension,
25 limitation, revocation or other disciplinary action of the licensing authority
26 of another state, agency of the United States government, territory of the
27 United States or country shall constitute prima facie evidence of such a
28 fact for purposes of this paragraph; or

29 (9) to have assisted suicide in violation of K.S.A. 21-3406, prior to its
30 repeal, or K.S.A. 2020 Supp. 21-5407, and amendments thereto, as
31 established by any of the following:

32 (A) A copy of the record of criminal conviction or plea of guilty to a
33 felony in violation of K.S.A. 21-3406, prior to its repeal, or K.S.A. 2020
34 Supp. 21-5407, and amendments thereto;

35 (B) a copy of the record of a judgment of contempt of court for
36 violating an injunction issued under K.S.A. 60-4404, and amendments
37 thereto; or

38 (C) a copy of the record of a judgment assessing damages under
39 K.S.A. 60-4405, and amendments thereto.

40 (b) No person shall be excused from testifying in any proceedings
41 before the board under this act or in any civil proceedings under this act
42 before a court of competent jurisdiction on the ground that such testimony
43 may incriminate the person testifying, but such testimony shall not be used

1 against the person for the prosecution of any crime under the laws of this
 2 state, except the crime of perjury as defined in K.S.A. 2020 Supp. 21-
 3 5903, and amendments thereto.

4 (c) *The board shall not deny, revoke, limit or suspend any license or*
 5 *authorization issued to a certified nurse-midwife or publicly censure a*
 6 *certified nurse-midwife upon any of the following:*

7 (1) *The certified nurse-midwife has:*

8 (A) *Advised a patient about the possible benefits and risks of using*
 9 *medical marijuana; or*

10 (B) *advised the patient that using medical marijuana may mitigate*
 11 *the patient's symptoms; or*

12 (2) *the certified nurse-midwife is a registered patient or caregiver*
 13 *pursuant to section 8, and amendments thereto, possesses or has*
 14 *possessed, or uses or has used medical marijuana in accordance with the*
 15 *Kansas medical marijuana regulation act, section 1 et seq., and*
 16 *amendments thereto.*

17 (d) As used in this section, "professional incompetency" means:

18 (1) One or more instances involving failure to adhere to the
 19 applicable standard of care to a degree which constitutes gross negligence,
 20 as determined by the board;

21 (2) repeated instances involving failure to adhere to the applicable
 22 standard of care to a degree which constitutes ordinary negligence, as
 23 determined by the board; or

24 (3) a pattern of practice or other behavior which demonstrates a
 25 manifest incapacity or incompetence to engage in the independent practice
 26 of midwifery.

27 ~~(d)~~(e) The board, upon request, shall receive from the Kansas bureau
 28 of investigation such criminal history record information relating to arrests
 29 and criminal convictions, as necessary, for the purpose of determining
 30 initial and continuing qualifications of licensees and applicants for
 31 licensure by the board.

32 ~~(e)~~ The provisions of this section shall become effective on January 1,
 33 2017.

34 Sec. 85. On and after July 1, 2023, K.S.A. 79-5201 is hereby
 35 amended to read as follows: 79-5201. As used in ~~this act~~ *article 52 of*
 36 *chapter 79 of the Kansas Statutes Annotated, and amendments thereto:*

37 (a) ~~"Marijuana" means any marijuana, whether real or counterfeit, as~~
 38 ~~defined by K.S.A. 2020 Supp. 21-5701, and amendments thereto, which is~~
 39 ~~held, possessed, transported, transferred, sold or offered to be sold in~~
 40 ~~violation of the laws of Kansas;~~

41 ~~(b)~~"Controlled substance" means any drug or substance, whether real
 42 or counterfeit, as defined by K.S.A. 2020 Supp. 21-5701, and amendments
 43 thereto, ~~which~~ *that* is held, possessed, transported, transferred, sold or

1 offered to be sold in violation of the laws of Kansas. Such term shall not
2 include marijuana;

3 ~~(e)~~(b) "dealer" means any person who, in violation of Kansas law,
4 manufactures, produces, ships, transports or imports into Kansas or in any
5 manner acquires or possesses more than 28 grams of marijuana, or more
6 than one gram of any controlled substance, or 10 or more dosage units of
7 any controlled substance ~~which~~ that is not sold by weight;

8 ~~(d)~~(c) "domestic marijuana plant" means any cannabis plant at any
9 level of growth ~~which~~ that is harvested or tended, manicured, irrigated,
10 fertilized or where there is other evidence that it has been treated in any
11 other way in an effort to enhance growth;

12 (d) "marijuana" means any marijuana, whether real or counterfeit,
13 as defined in K.S.A. 2020 Supp. 21-5701, and amendments thereto, that is
14 held, possessed, transported, transferred, sold or offered for sale in
15 violation of the laws of Kansas; and

16 (e) "medical marijuana" means the same as defined in section 2, and
17 amendments thereto.

18 Sec. 86. On and after July 1, 2023, K.S.A. 79-5210 is hereby
19 amended to read as follows: 79-5210. Nothing in this act requires persons
20 registered under article 16 of chapter 65 of the Kansas Statutes Annotated,
21 and amendments thereto, or otherwise lawfully in possession of marijuana,
22 medical marijuana or a controlled substance to pay the tax required under
23 this act.

24 Sec. 87. K.S.A. 2020 Supp. 39-7,160 and 40-3213 are hereby
25 repealed.

26 Sec. 88. On and after July 1, 2023, K.S.A. 65-28b08, 79-5201 and
27 79-5210 and K.S.A. 2020 Supp. 21-5703, 21-5705, 21-5706, 21-5707, 21-
28 5709, 21-5710, 23-3203, 38-2269, 44-501, 44-706, 44-1009, 44-1015 and
29 65-1120 are hereby repealed.

30 Sec. 89. This act shall take effect and be in force from and after its
31 publication in the Kansas register.