

HOUSE BILL No. 2742

By Committee on Federal and State Affairs

3-12

1 AN ACT concerning health and healthcare; enacting the Kansas equal
2 access act; relating to medical cannabis; providing for the licensure and
3 regulation of the manufacture, transportation and sale of medical
4 cannabis; amending K.S.A. 44-1009, 44-1015, 79-5201 and 79-5210
5 and K.S.A. 2019 Supp. 8-1567, 21-5703, 21-5705, 21-5706, 21-5707,
6 21-5709, 21-5710, 21-6109, 23-3201, 38-2269, 44-501, 44-706 and 65-
7 1120 and repealing the existing sections.

8
9 *Be it enacted by the Legislature of the State of Kansas:*

10 New Section 1. (a) Sections 1 through 26, and amendments thereto,
11 shall be known as the Kansas equal access act.

12 (b) The legislature hereby declares that the Kansas equal access act is
13 enacted pursuant to the police power of the state to protect the health of its
14 citizens, which power is reserved to the state of Kansas and its people
15 under the 10th amendment to the constitution of the United States.

16 New Sec. 2. As used in the Kansas equal access act, unless the
17 context requires otherwise:

18 (a) "Advertising" means the act of providing consideration for the
19 publication, dissemination, solicitation or circulation of visual, oral or
20 written communication to directly or indirectly induce any person to
21 patronize a particular licensed medical cannabis facility or purchase a
22 particular type of medical cannabis or medical cannabis product. The term
23 "advertising" includes marketing, but does not include the packaging and
24 labeling of any medical cannabis or medical cannabis product.

25 (b) "Agency" means the Kansas medical cannabis agency established
26 under section 3, and amendments thereto.

27 (c) "Cannabis" means all parts of all varieties of the plant Cannabis
28 whether growing or not, the seeds thereof, the resin extracted from any
29 part of the plant and every compound, manufacture, salt, derivative,
30 mixture or preparation of the plant, its seeds or resin. It does not include:
31 (1) The mature stalks of the plant, fiber produced from the stalks, oil or
32 cake made from the seeds of the plant, any other compound, manufacture,
33 salt, derivative, mixture or preparation of the mature stalks, except the
34 resin extracted therefrom, fiber, oil or cake or the sterilized seed of the
35 plant that is incapable of germination; (2) any substance listed in schedules
36 II through V of the uniform controlled substances act; (3) cannabidiol

1 (other trade name: 2-[(3-methyl-6-(1-methylethenyl)-2-cyclohexen-1-yl)-
2 5-pentyl-1,3-benzenediol); or (4) industrial hemp as defined in K.S.A.
3 2019 Supp. 2-3901, and amendments thereto, when cultivated, produced,
4 possessed or used for activities authorized by the commercial industrial
5 hemp act.

6 (d) "Cannabinoid" means any of the chemical compounds that are
7 active principles of cannabis.

8 (e) "Caregiver" means an individual who holds a caregiver license
9 issued pursuant to section 10, and amendments thereto.

10 (f) "Cultivation facility" means a person licensed pursuant to section
11 16, and amendments thereto, to cultivate, prepare and package medical
12 cannabis and to sell medical cannabis to licensed dispensary and
13 manufacturer facilities.

14 (g) "Department" means the department of health and environment.

15 (h) "Director" means the director of the Kansas medical cannabis
16 agency.

17 (i) "Dispensary facility" means a person licensed pursuant to section
18 16, and amendments thereto, to purchase medical cannabis or medical
19 cannabis products from a licensed cultivation facility or manufacturer
20 facility and to sell medical cannabis and medical cannabis products to
21 other licensed dispensary facilities or to licensed patients and caregivers.

22 (j) "Educational research facility" means a person licensed pursuant
23 to section 16, and amendments thereto, to provide training and education
24 to individuals involving the cultivation, growing, harvesting, curing,
25 preparing, packaging or testing of medical cannabis or the production,
26 manufacture, extraction, processing, packaging or creation of medical
27 cannabis products.

28 (k) "Licensee" means any person holding a license issued pursuant to
29 this act to operate a cultivation facility, manufacturer facility, testing
30 laboratory facility or dispensary facility.

31 (l) "Licensed premises" means the premises specified in an
32 application for a cultivation facility, manufacturer facility, testing
33 laboratory facility, dispensary facility or educational research facility
34 license that is owned or leased by the person holding such license.

35 (m) "Manufacture" means the production, propagation, compounding
36 or processing of a medical cannabis product, excluding cannabis plants,
37 either directly or indirectly by extraction from substances of natural or
38 synthetic origin, by means of chemical synthesis or by a combination of
39 extraction and chemical synthesis.

40 (n) "Material change" means any change that would require a
41 substantive revision to the standard operating procedures of a licensee in
42 the cultivation or manufacture of medical cannabis or medical cannabis
43 products.

1 (o) "Medical cannabis concentrate" means a medical cannabis
2 concentrate produced by extracting cannabinoids from cannabis through
3 the use of heat or pressure.

4 (p) "Medical cannabis product" means a product that contains
5 cannabinoids that have been extracted from plant material or the resin of a
6 plant and is intended for administration to a patient. The term "medical
7 cannabis product" includes, but is not limited to, oils, tinctures, edibles,
8 pills, topical forms, gels, creams, vapors, patches, liquids and any form
9 administered by a nebulizer. The term "medical cannabis product" does not
10 include any form of the live cannabis plant.

11 (q) "Medical provider" means a physician or physician assistant, as
12 those terms are defined in K.S.A. 65-28a02, and amendments thereto, or
13 an advanced practice registered nurse, as defined in K.S.A. 65-1113, and
14 amendments thereto.

15 (r) "Patient" means an individual who holds a patient license issued
16 pursuant to section 10, and amendments thereto.

17 (s) "Person" means an individual, partnership, limited partnership,
18 limited liability partnership, limited liability company, trust, estate,
19 association, corporation, cooperative or any other legal or commercial
20 organization.

21 (t) "Processor facility" means a person licensed pursuant to section
22 16, and amendments thereto, to produce, manufacture, package or create
23 medical cannabis concentrate or medical cannabis products.

24 (u) "Qualifying medical condition" means a temporary disability or
25 illness due to injury or surgery or a permanent disability or illness that:

26 (1) Substantially limits the ability of the individual to conduct one or
27 more major life activities as defined in the Americans with disabilities act
28 of 1990, public law 101-336; or

29 (2) if not alleviated, may cause serious harm to the individual's safety
30 or physical or mental health.

31 (v) "Secretary" means the secretary of the department of health and
32 environment.

33 (w) "Secured facility" means an enclosed space equipped with locks
34 or other security devices that permit access to such space only by the
35 patient or individuals authorized to enter such space by the patient, and, if
36 such facility is located outdoors, the cannabis plants are not visible to the
37 unaided eye at ground level from property that is adjacent to such facility,
38 but not owned or controlled by the patient, or from any permanent
39 structure located on such adjacent property.

40 (x) "Testing laboratory facility" means a person licensed pursuant to
41 section 16, and amendments thereto, to conduct testing and research on
42 medical cannabis and medical cannabis products.

43 New Sec. 3. There is hereby established, within and as a part of the

1 department of health and environment, the Kansas medical cannabis
2 agency. The secretary of health and environment shall appoint a director of
3 the Kansas medical cannabis agency, subject to confirmation by the senate
4 as provided in K.S.A. 75-4315b, and amendments thereto, and the director
5 shall serve at the pleasure of the secretary. Except as provided by K.S.A.
6 46-2601, and amendments thereto, no person appointed as director shall
7 exercise any power, duty or function as director until confirmed by the
8 senate. The director of the Kansas medical cannabis agency shall be in the
9 unclassified service and shall receive an annual salary fixed by the
10 secretary of health and environment and approved by the governor. Under
11 the supervision of the secretary, the director shall administer the Kansas
12 medical cannabis agency in accordance with the provisions of this act.

13 New Sec. 4. No individual shall be appointed director or employed by
14 the agency if such individual, such individual's spouse, parent, sibling,
15 child or spouse of a sibling or child, directly or indirectly, individually or
16 as a member of a partnership, or as a shareholder of a corporation, holds
17 any interest in any person or entity licensed pursuant to this act.

18 New Sec. 5. (a) All employees of the agency shall be in the
19 unclassified service. The director shall not adopt any employment policy
20 that prohibits the employment of individuals who have been convicted or
21 pleaded guilty to any offense under article 36a of chapter 21 of the Kansas
22 Statutes Annotated, prior to its transfer, article 57 of chapter 21 of the
23 Kansas Statutes Annotated, and amendments thereto, or K.S.A. 65-4160 or
24 65-4162, prior to their repeal, but whose conduct that resulted in such
25 offense would have been lawful if such individual had possessed a valid
26 patient or caregiver identification card at the time of such offense.

27 (b) The director and any agents or employees of the agency
28 designated by the director, with the approval of the secretary, are hereby
29 vested with the power and authority of law enforcement officers, in the
30 execution of the duties imposed upon the director by this act and in
31 enforcing the provisions of this act.

32 (c) The director and each agent and employee designated by the
33 director under subsection (a), with the approval of the secretary, shall have
34 the authority to make arrests, conduct searches and seizures and carry
35 firearms while investigating violations of this act and during the routine
36 conduct of their duties as determined by the director or the director's
37 designee. In addition to or in lieu of the above, the director and each agent
38 and employee shall have the authority to issue notices to appear pursuant
39 to K.S.A. 22-2408, and amendments thereto. No agent or employee of the
40 agency shall be certified to carry firearms under the provisions of this
41 section without having first successfully completed the firearm training
42 course or courses prescribed for law enforcement officers under K.S.A.
43 74-5604a(a), and amendments thereto. The secretary may adopt rules and

1 regulations prescribing other training required for such agents or
2 employees.

3 (d) The attorney general shall appoint, with the approval of the
4 secretary, an assistant attorney general who shall be the attorney for the
5 director and the agency and who shall receive an annual salary fixed by the
6 attorney general with the approval of the director.

7 New Sec. 6. (a) The director shall have the following powers,
8 functions and duties:

9 (1) To receive applications for and to issue, suspend and revoke
10 identification cards and licenses in accordance with the provisions of this
11 act;

12 (2) to call upon other administrative departments and law
13 enforcement agencies of the state, county and city governments and upon
14 district and county attorneys for such information and assistance as the
15 director deems necessary in the performance of the duties imposed upon
16 the director by this act;

17 (3) to inspect or cause to be inspected any licensed premises or any
18 premises where canabis is cultivated;

19 (4) in the conduct of any hearing authorized to be held by the
20 director:

21 (A) to examine or cause to be examined, under oath, any person and
22 to examine or cause to be examined books and records of any licensee;

23 (B) to hear testimony and take proof material for the information of
24 the director in the discharge of such duties hereunder;

25 (C) to administer or cause to be administered oaths; and

26 (D) for any such purposes, to issue subpoenas to require the
27 attendance of witnesses and the production of books that shall be effective
28 in any part of this state, and any district court or any judge of the district
29 court, may, by order duly entered, require the attendance of witnesses and
30 the production of relevant books subpoenaed by the director, and the court
31 or judge may compel obedience to the order by proceedings for contempt;

32 (5) to collect, receive, account for and remit all license fees and taxes
33 provided for in this act and all other moneys received by the director
34 pursuant to this act;

35 (6) to enter into such contracts as necessary to implement the
36 provisions of this act;

37 (7) to impose any fines or other civil penalties in accordance with the
38 provisions of this act;

39 (8) to seek injunctive relief or any other appropriate civil remedy
40 necessary to enforce the provisions of this act and any rules and
41 regulations adopted thereunder;

42 (9) to coordinate with the state banking commissioner and the state
43 treasurer to develop banking and finance best practices and standards for

1 facilities licensed pursuant to this act; and

2 (10) such other powers, functions and duties as are or may be
3 imposed or conferred upon the director by law.

4 (b) The director shall propose such rules and regulations as necessary
5 to implement the provisions of this act. After the public hearing on a
6 proposed rule and regulation has been held as required by law, the director
7 shall submit the proposed rule and regulation to the secretary, who shall
8 adopt the rule and regulation upon approval by the secretary. Such rules
9 and regulations shall include, but are not limited to:

10 (1) Establishing internal control policies and procedures for the
11 review of license applications and the issuance of licenses;

12 (2) verifying the sources of financing for facilities licensed pursuant
13 to this act; and

14 (3) establishing policies and procedures for the reporting and tracking
15 of:

16 (A) Adverse events;

17 (B) product recalls; and

18 (C) complaints.

19 (c) It is intended by this act that the director shall have broad
20 discretionary powers to govern the traffic in medical cannabis in this state
21 and to strictly enforce all the provisions of this act in the interest of
22 sanitation, purity of products, truthful representation and honest dealings
23 in such manner as generally will promote the public health and welfare.
24 All valid rules and regulations adopted under the provisions of this act
25 shall be absolutely binding upon all licensees and enforceable by the
26 director through the power of suspension or revocation of licenses.

27 New Sec. 7. All actions by the director under the Kansas equal access
28 act shall be in accordance with the Kansas administrative procedure act
29 and reviewable in accordance with the Kansas judicial review act.

30 New Sec. 8. (a) There is hereby established the Kansas medical
31 cannabis advisory board. The Kansas medical cannabis advisory board
32 shall consist of 18 members as follows:

33 (1) The secretary of the department of health and environment or the
34 secretary's designee;

35 (2) the secretary of the department of agriculture or the secretary's
36 designee;

37 (3) the secretary for aging and disability services or the secretary's
38 designee;

39 (4) The following members appointed by the governor:

40 (A) Two members who support the use of cannabis for medical
41 purposes and who are or were patients who found relief from the use of
42 medical cannabis;

43 (B) one member designated by the Kansas association of addiction

1 professionals;

2 (C) three licensed physicians who have completed cannabis-specific
3 continuing medical education training;

4 (D) one licensed nurse practitioner who has experience in hospice
5 care;

6 (E) one licensed pharmacist;

7 (F) one member who has experience in the science of cannabis;

8 (G) one member who is a representative of law enforcement agencies;

9 (H) one member who is an attorney knowledgeable about medical
10 cannabis laws in the United States;

11 (I) one member recommended by the secretary of agriculture who has
12 experience in horticulture;

13 (J) two members who have experience in the medical cannabis
14 industry; and

15 (K) one member designated by the league of Kansas municipalities.

16 (b) Members of the Kansas medical cannabis advisory board shall
17 serve for a term of two years. Any vacancy in a position on the board shall
18 be filled in the same manner as the original appointment.

19 (c) The governor shall designate the chair from the members
20 appointed by the governor.

21 (d) The Kansas medical cannabis advisory board shall advise the
22 secretary and the director on adoption of rules and regulations pertaining
23 to the following:

24 (1) Applications for licensure;

25 (2) issuance and renewal of licenses;

26 (3) security issues;

27 (4) testing of medical cannabis and medical cannabis products;

28 (5) transportation of medical cannabis and medical cannabis products;

29 (6) education and research of medical cannabis;

30 (7) electronic monitoring of medical cannabis from seed source to
31 dispensing to a patient or caregiver as required under section 20, and
32 amendments thereto; and

33 (8) policies and procedures related to the receipt, storage, packaging,
34 labeling, handling, manufacturing, tracking and dispensing of medical
35 cannabis and medical cannabis products.

36 New Sec. 9. (a) The director shall begin accepting applications for
37 identification cards and licenses on or before January 1, 2021.

38 (b) The agency shall develop and publish a website to provide
39 information about the Kansas equal access act. A link to the website shall
40 be located in a prominent location on the primary website for the
41 department of health and environment.

42 (c) The agency website may include, but not be limited to, the
43 following:

- 1 (1) The ability to search for any of the following:
- 2 (A) Certified medical providers;
- 3 (B) caregivers; and
- 4 (C) licensed dispensaries;
- 5 (2) contact information, including phone number and email, for the
- 6 agency;
- 7 (3) information regarding the process for appealing a decision of the
- 8 director;
- 9 (4) application forms for identification cards and facility licenses; and
- 10 (5) crop damage report forms, including a portal to upload documents
- 11 and pictures.

12 New Sec. 10. (a) A patient seeking to use medical cannabis or a
13 caregiver seeking to assist a patient in the use or administration of medical
14 cannabis shall apply to the director for an identification card authorizing
15 the possession and use of medical cannabis and medical cannabis products
16 as authorized by this act. The application for an identification card shall be
17 submitted in such form and manner as prescribed by the director,
18 accompanied by the required fee. The application shall include the written
19 recommendation from the patient's medical provider to treat such patient
20 with medical cannabis because such patient has a qualifying medical
21 condition.

22 (b) (1) The fee for a patient identification card and the renewal
23 thereof shall not exceed \$25, except that such fee shall be waived for any
24 applicant that submits proof that the applicant:

25 (A) Qualifies for services under the Kansas medical assistance
26 program; or

27 (B) is certified by the Kansas department for aging and disability
28 services or by the Kansas department for children and families as having a
29 physical or mental impairment that constitutes a substantial barrier to
30 employment.

31 (2) The fee for a caregiver identification card and the renewal thereof
32 shall be established by rules and regulations adopted hereunder.

33 (c) The director shall not issue an identification card to an applicant
34 who is under 18 years of age unless the applicant submits written
35 recommendations from two medical providers that such applicant has a
36 qualifying medical condition, and such applicant's custodial parent or legal
37 guardian with responsibility for healthcare decisions for such applicant
38 obtains a caregiver identification card and is designated as such applicant's
39 caregiver.

40 (d) (1) A patient may designate any individual who is 18 years of age
41 or older as such patient's caregiver, including the owner, operator or any
42 trained staff of a licensed clinic, healthcare facility, hospice or home health
43 agency, group home or halfway house, and any individual who has been

1 designated as a caregiver by another patient.

2 (2) A caregiver may be less than 18 years of age if:

3 (A) The caregiver is the parent of the patient, and the patient is under
4 18 years of age;

5 (B) the caregiver is otherwise authorized by law to make healthcare
6 decisions for the patient; or

7 (C) it is demonstrated to the satisfaction of the director that the
8 patient needs a caregiver and there is no individual 18 years of age or older
9 who can adequately perform the duties of a caregiver for such patient.

10 (e) A written recommendation from a medical provider required
11 under this section shall include a statement that such medical provider has
12 taken responsibility for an aspect of the medical care, treatment, diagnosis,
13 counseling or referral of a patient, has conducted a medical examination of
14 such patient and has determined such patient suffers from a qualifying
15 medical condition.

16 (f) A patient or caregiver identification card shall be valid for the
17 period of time stated on such card and may be renewed by submitting a
18 renewal application in such form and manner as prescribed by the director,
19 accompanied by the required fee. The secretary shall adopt rules and
20 regulations establishing the period of validity for patient and caregiver
21 identification cards and the procedures for the renewal thereof.

22 (g) (1) Any information collected by the director pursuant to this
23 section is confidential and not a public record. The director may share
24 information identifying a specific patient or caregiver with a licensed retail
25 dispensary for the purpose of confirming that such patient or caregiver has
26 a valid identification card. The provisions of this subsection shall expire on
27 July 1, 2025, unless the legislature reviews and reenacts such provisions in
28 accordance with K.S.A. 45-229, and amendments thereto, prior to July 1,
29 2025.

30 (2) It shall be a class B nonperson misdemeanor for any person to
31 release any confidential information collected by the director except as
32 authorized under this act.

33 New Sec. 11. (a) An individual issued a patient or caregiver
34 identification card pursuant to section 10, and amendments thereto, may
35 cultivate, purchase, possess and use medical cannabis and medical
36 cannabis products as authorized by rules and regulations adopted
37 hereunder.

38 (b) In adopting such rules and regulations, the secretary may establish
39 limits on the amount of medical cannabis and medical cannabis products
40 that may be cultivated, purchased and possessed by a patient or caregiver.
41 Such rules and regulations shall include, but not be limited to:

42 (1) A requirement that a patient notify the director that such patient
43 intends to cultivate cannabis pursuant to this section;

1 (2) a restriction that cultivation by a patient shall not exceed 25
2 square feet of flowering canopy space and shall be completely contained in
3 a secured facility;

4 (3) a requirement that cannabis cultivated by a patient shall be subject
5 to the medical cannabis electronic monitoring database established under
6 section 20, and amendments thereto, and any reporting requirements
7 established thereunder; and

8 (4) a requirement that a patient cultivating cannabis shall be subject
9 to all rules and regulations concerning the reporting and tracking of
10 adverse events.

11 (c) Any limit on the amount of medical cannabis or medical cannabis
12 product a patient or caregiver may cultivate, purchase or possess shall
13 allow at least four ounces of dried, unprocessed medical cannabis or its
14 equivalent as a 30-day supply. Such rules and regulations shall also allow
15 for exceptions from any such limitations upon submission of a written
16 certification from two independent medical providers that there are
17 compelling reasons for the patient to purchase and possess greater
18 quantities of medical cannabis or medical cannabis products.

19 New Sec. 12. (a) Except as provided in subsection (f), a medical
20 provider seeking to recommend treatment with medical cannabis shall
21 apply to the director for a certificate authorizing such medical provider to
22 recommend treatment with medical cannabis. The application shall be
23 submitted in such form and manner as prescribed by the director,
24 accompanied by the required fee. The director shall grant a certificate to
25 recommend if the following conditions are satisfied:

26 (1) The application is complete and meets the requirements
27 established in rules and regulations adopted hereunder; and

28 (2) the applicant demonstrates that the applicant does not have an
29 ownership or investment interest in or compensation arrangement with an
30 entity licensed by the director under this act or an applicant for such
31 licensure.

32 (b) The fee for a certificate to recommend shall be established by
33 rules and regulations adopted hereunder.

34 (c) A certificate to recommend may be renewed at such time by
35 submitting a renewal application in such form and manner as prescribed by
36 the director and by complying with rules and regulations adopted
37 hereunder for such renewal.

38 (d) In the case of a patient who is under 18 years of age, the medical
39 provider may recommend treatment with medical cannabis only after
40 obtaining the consent of the patient's parent or legal guardian responsible
41 for making healthcare decisions for the patient.

42 (e) A medical provider who holds a certificate to recommend
43 treatment with medical cannabis shall be immune from civil liability, shall

1 not be subject to professional disciplinary action by the state board of
2 healing arts or the board of nursing and shall not be subject to criminal
3 prosecution for any of the following actions:

4 (1) Advising a patient, patient representative or caregiver about the
5 benefits and risks of medical cannabis to treat a qualifying medical
6 condition;

7 (2) recommending that a patient use medical cannabis to treat or
8 alleviate a qualifying medical condition; and

9 (3) monitoring a patient's treatment with medical cannabis.

10 (f) This section shall not apply to a medical provider who
11 recommends treatment with cannabis or a cannabis-derived drug under any
12 of the following that is approved by an institutional review board or
13 equivalent entity, the United States food and drug administration or the
14 national institutes of health or one of its cooperative groups or centers
15 under the United States department of health and human services:

16 (1) A research protocol;

17 (2) a clinical trial;

18 (3) an investigational new drug application; or

19 (4) an expanded access submission.

20 New Sec. 13. A medical cannabis registry identification card, or its
21 equivalent, that is issued under the laws of another state, district, territory,
22 commonwealth or insular possession of the United States that is verifiable
23 by the jurisdiction of issuance and allows a nonresident patient to possess
24 medical cannabis for medical purposes shall have the same force and
25 effect as an identification card issued by the director pursuant to section
26 10, and amendments thereto.

27 New Sec. 14. No state or municipal law enforcement agency, or any
28 officer or employee thereof, shall provide any identifying information
29 concerning a patient or caregiver who holds an identification card issued
30 pursuant to section 10, and amendments thereto, to any federal law
31 enforcement agency or law enforcement agency of another jurisdiction for
32 the purpose of any investigation of a crime involving possession of
33 cannabis, unless such law enforcement agency recognizes the lawful
34 purchase, possession and consumption of medical cannabis under the
35 Kansas equal access act.

36 New Sec. 15. Nothing in this act shall prohibit a commercial real
37 property owner or a business owner from prohibiting the consumption of
38 medical cannabis or medical cannabis products by smoking or vaporizing
39 such medical cannabis or medical cannabis products on the owner's
40 premises and within 10 feet of any entryway to such premises.

41 New Sec. 16. (a) A person seeking to operate a cultivation, testing
42 laboratory, processor or dispensary facility shall apply to the director for a
43 license for such facility. The application shall be submitted in such form

1 and manner as prescribed by the director, accompanied by the required fee.
2 The director shall issue a license for such facility if the following
3 conditions are satisfied:

4 (1) The application is complete and meets the requirements
5 established in rules and regulations adopted hereunder; and

6 (2) the applicant submits proof that at least $\frac{2}{3}$ of the individuals who
7 have an ownership interest in such facility are residents of this state.

8 (b) A person seeking to operate an educational research laboratory
9 facility shall apply to the director for a license for such facility. The
10 application shall be submitted in such form and manner as prescribed by
11 the director, accompanied by the required fee. The director shall issue a
12 license for such facility if the following conditions are satisfied:

13 (1) The application is complete and meets the requirements
14 established in rules and regulations adopted hereunder; and

15 (2) the applicant submits proof that such applicant has or will have an
16 employment policy that will not prohibit the employment of individuals
17 who have been convicted or pleaded guilty to any offense under article 36a
18 of chapter 21 of the Kansas Statutes Annotated, prior to its transfer, article
19 57 of chapter 21 of the Kansas Statutes Annotated, and amendments
20 thereto, or K.S.A. 65-4160 or 65-4162, prior to their repeal, but whose
21 conduct that resulted in such offense would have been lawful if such
22 individual had possessed a valid patient or caregiver identification card at
23 the time of such offense.

24 (c) The fee for each type of facility license issued by the director and
25 the renewal thereof shall be established by rules and regulations adopted
26 hereunder.

27 (d) A facility license shall be valid for the period of time stated on
28 such license and may be renewed by submitting a renewal application in
29 such form and manner as prescribed by the director, accompanied by the
30 required fee. The secretary shall adopt rules and regulations establishing
31 the period of validity for facility licenses and the procedures for the
32 renewal thereof.

33 (e) An individual shall be a resident of this state for at least two years
34 immediately prior to submission of the license application to be considered
35 a resident for purposes of obtaining a license under this section.

36 (f) The secretary shall adopt rules and regulations for:

37 (1) Applications for licensure;

38 (2) issuance of licenses;

39 (3) security of facilities;

40 (4) testing protocols for laboratories;

41 (5) employee training requirements;

42 (6) transportation and handling of medical cannabis and medical
43 cannabis products; and

1 (7) the receipt, storage, packaging, labeling, handling, manufacturing,
2 tracking and dispensing of medical cannabis and medical cannabis
3 products.

4 New Sec. 17. All applicants for a facility license shall require any
5 owner, director, officer or agent of such applicant to be fingerprinted and
6 to submit to a state and national criminal history record check. The
7 director is authorized to submit the fingerprints to the Kansas bureau of
8 investigation and the federal bureau of investigation for a state and
9 national criminal history record check. The director shall use the
10 information obtained from fingerprinting and the state and national
11 criminal history record check for purposes of verifying the identification
12 of the applicant and for making a determination of the qualifications of the
13 applicant for licensure. The Kansas bureau of investigation may charge a
14 reasonable fee to the applicant for fingerprinting and conducting a criminal
15 history record check, except such fee shall not exceed the actual cost
16 incurred for such criminal history record check.

17 New Sec. 18. (a) The director may refuse to issue or renew a facility
18 license, or may revoke or suspend a facility license for any of the
19 following reasons:

20 (1) The licensee has failed to comply with any provision of the
21 Kansas equal access act or any rules and regulations adopted hereunder;

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

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

27 (4) the applicant or licensee has failed to submit or disclose
28 information requested by the director.

29 (b) (1) Except as provided in paragraph (2), the director shall inspect
30 the licensed premises of a facility licensee not more than twice each
31 calendar year, and shall provide notice of such inspection to the licensee at
32 least 24 hours prior to the inspection.

33 (2) The director may conduct additional inspections of a licensed
34 premises when necessary due to a prior violation of this act. Such
35 inspection may be conducted without prior notice to the licensee if the
36 director reasonably believes that such notice will result in the destruction
37 of evidence in further violation of this act.

38 (c) During any investigation by the director, the director may require
39 and conduct interviews with the licensee under investigation and any
40 owners, officers, employees and agents thereof. Prior to conducting any
41 such interviews upon the request of the licensee, the director shall provide
42 the licensee and any other individuals being interviewed sufficient time to
43 secure legal representation during such interviews.

1 New Sec. 19. (a) In addition to or in lieu of any other civil or criminal
2 penalty as provided by law, the director may impose a civil penalty or
3 suspend or revoke a license upon a finding that the licensee committed a
4 violation as provided in this section.

5 (b) (1) Upon a finding that a facility licensee has sold, transferred or
6 otherwise distributed medical cannabis in violation of this act, the director
7 may impose a civil fine not to exceed \$1,000 for a first offense and not to
8 exceed \$5,000 for a second or subsequent offense.

9 (2) Upon a showing that a facility licensee acted willfully or with
10 gross negligence in selling, transferring or otherwise distributing medical
11 cannabis in violation of this act, the director may suspend or revoke such
12 licensee's license.

13 (c) (1) Upon a finding that a patient or caregiver intentionally
14 diverted medical cannabis or medical cannabis products to an unauthorized
15 person in violation of this act, the director may impose a civil fine not to
16 exceed \$2,000 for a first offense and not to exceed \$5,000 for a second or
17 subsequent offense.

18 (2) Upon a showing that a patient or caregiver acted willfully or with
19 gross negligence in intentionally diverting medical cannabis or medical
20 cannabis products to an unauthorized person in violation of this act, the
21 director may suspend or revoke such patient's or caregiver's identification
22 card.

23 (d) Upon a showing that a patient or caregiver violated any reporting
24 requirements with respect to cannabis cultivated by such patient or
25 caregiver, the director may impose a civil fine not to exceed \$250.

26 New Sec. 20. The director shall establish and maintain an electronic
27 database to monitor medical cannabis from its seed source through its
28 cultivation, testing, processing, distribution and dispensing. The director
29 may contract with a separate entity to establish and maintain all or any
30 portion of the electronic database on behalf of the agency.

31 New Sec. 21. (a) There is hereby established the medical cannabis
32 regulation fund in the state treasury. The director of the Kansas medical
33 cannabis agency shall administer the medical cannabis regulation fund and
34 shall remit all moneys collected from the payment of all fees and fines
35 imposed by the director pursuant to the Kansas equal access act and any
36 other moneys received by or on behalf of the director pursuant to such act
37 to the state treasurer in accordance with the provisions of K.S.A. 75-4215,
38 and amendments thereto. Upon receipt of each such remittance, the state
39 treasurer shall deposit the entire amount in the state treasury to the credit
40 of the medical cannabis regulation fund. Moneys credited to the medical
41 cannabis regulation fund shall only be expended or transferred as provided
42 in this section. Expenditures from such fund shall be made in accordance
43 with appropriation acts upon warrants of the director of accounts and

1 reports issued pursuant to vouchers approved by the director or the
2 director's designee.

3 (b) Moneys in the medical cannabis regulation fund shall be used for
4 costs related to the regulation and enforcement of the cultivation,
5 possession, processing and sale of medical cannabis by the Kansas medical
6 cannabis agency.

7 New Sec. 22. (a) A tax is hereby imposed upon the privilege of
8 selling medical cannabis and medical cannabis products in this state by
9 any licensed dispensary at the rate of 4% on the gross receipts received
10 from the sale of medical cannabis to patients and caregivers holding an
11 identification card issued pursuant to section 10, and amendments thereto.
12 The tax imposed by this section shall be paid by the patient or caregiver at
13 the time of purchase.

14 (b) On or before the 20th day of each calendar month, every licensed
15 dispensary shall file a return with the director of taxation showing the
16 quantity of medical cannabis and medical cannabis products sold to
17 patients and caregivers within this state during the preceding calendar
18 month. Each return shall be accompanied by a remittance for the full tax
19 liability shown.

20 (c) All moneys received by the director of taxation or the director's
21 designee from taxes imposed by this section shall be remitted to the state
22 treasurer in accordance with the provisions of K.S.A. 75-4215, and
23 amendments thereto. Upon receipt of each such remittance, the state
24 treasurer shall deposit the entire amount in the state treasury to the credit
25 of the medical cannabis revenues fund, established by section 25, and
26 amendments thereto.

27 New Sec. 23. The director of taxation shall have the power to require
28 any licensed dispensary to furnish additional information deemed
29 necessary for the purpose of computing the amount of the taxes due
30 pursuant to the Kansas equal access act and, for such purpose, to examine
31 all books, records and files of such persons or entities, and, for such
32 purpose, the director shall have the power to issue subpoenas and examine
33 witnesses under oath, and if any witness shall fail or refuse to appear at the
34 request of the director, or refuse access to books, records and files, the
35 district court of the proper county, or the judge thereof, on application of
36 the director, shall compel obedience by proceedings for contempt, as in the
37 case of disobedience of the requirements of a subpoena issued from such
38 court or a refusal to testify therein.

39 New Sec. 24. The provisions of K.S.A. 75-5133, 79-3610, 79-3611,
40 79-3612, 79-3613, 79-3615 and 79-3617, and amendments thereto,
41 relating to the assessment, collection, appeal and administration of the
42 retailers' sales tax, insofar as practical, shall have full force and effect with
43 respect to taxes, penalties and fines imposed by section 22, and

1 amendments thereto.

2 New Sec. 25. (a) There is hereby established the medical cannabis
3 revenues fund in the state treasury. All expenditures and transfers from
4 such fund shall be made in accordance with appropriation acts. All moneys
5 credited to such fund shall be expended or transferred only for the
6 purposes of medical cannabis research, public health programs, mental
7 health programs, telemedicine programs, drug and alcohol abuse and
8 prevention programs, elementary and secondary school health programs,
9 broadband or high-speed internet connectivity initiatives, expenditures
10 from the state water plan fund and property tax relief for individuals who
11 are 60 years of age or older.

12 (b) (1) On July 1, 2021, and each July 1 thereafter, or as soon
13 thereafter such date as moneys are available, the first \$4,000,000 credited
14 to the medical cannabis revenues fund shall be transferred by the director
15 of accounts and reports from the medical cannabis revenues fund to the
16 operating grant (including official hospitality) account of the department
17 of commerce in the state general fund to be expended for the expansion of
18 broadband internet connectivity.

19 (2) On July 1, 2021, and each July 1 thereafter, or as soon thereafter
20 such date as moneys are available, after the transfer has been made under
21 paragraph (1), the next \$4,000,000 credited to the medical cannabis
22 revenues fund shall be transferred by the director of accounts and reports
23 from the medical cannabis revenues fund to the community crisis
24 stabilization centers fund of the Kansas department for aging and disability
25 services.

26 (3) On July 1, 2021, and each July 1 thereafter, or as soon thereafter
27 such date as moneys are available, after the transfers have been made
28 under paragraphs (1) and (2), the next \$4,000,000 credited to the medical
29 cannabis revenues fund shall be transferred by the director of accounts and
30 reports from the medical cannabis revenues fund to the state water plan
31 fund established by K.S.A. 82a-951, and amendments thereto.

32 New Sec. 26. The provisions of the Kansas equal access act are
33 hereby declared to be severable. If any part or provision of the Kansas
34 equal access act is held to be void, invalid or unconstitutional, such part or
35 provision shall not affect or impair any of the remaining parts or
36 provisions of the Kansas equal access act and any such remaining parts or
37 provisions shall continue in full force and effect.

38 New Sec. 27. (a) A covered entity, solely on the basis that an
39 individual consumes medical cannabis in accordance with the provisions
40 of the Kansas equal access act, section 1 et seq., and amendments thereto,
41 shall not:

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

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

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

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

8 (5) place such individual at a lower-priority position on an organ
9 transplant waiting list than the position at which such individual would
10 have been placed if not for such individual's consumption of medical
11 cannabis.

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

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

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

24 New Sec. 28. (a) Subject to the provisions of K.S.A. 44-1018, and
25 amendments thereto, it shall be unlawful for any person:

26 (1) To refuse to sell or rent after the making of a bona fide offer, to
27 fail to transmit a bona fide offer or refuse to negotiate in good faith for the
28 sale or rental of, or otherwise make unavailable or deny, real property to
29 any person because such person consumes medical cannabis in accordance
30 with the provisions of the Kansas equal access act, section 1 et seq., and
31 amendments thereto;

32 (2) to discriminate against any person in the terms, conditions or
33 privileges of sale or rental of real property, or in the provision of services
34 or facilities in connection therewith, because such person consumes
35 medical cannabis in accordance with the provisions of the Kansas equal
36 access act, section 1 et seq., and amendments thereto; and

37 (3) to discriminate against any person in such person's use or
38 occupancy of real property because such person associates with another
39 person who consumes medical cannabis in accordance with the provisions
40 of the Kansas equal access act, section 1 et seq., and amendments thereto.

41 (b) (1) It shall be unlawful for any person or other entity whose
42 business includes engaging in real estate related transactions to
43 discriminate against any person in making available such a transaction, or

1 in the terms or conditions of such a transaction, because such person or
2 any person associated with such person in connection with any real estate
3 related transaction consumes medical cannabis in accordance with the
4 provisions of the Kansas equal access act, section 1 et seq., and
5 amendments thereto.

6 (2) Nothing in this subsection prohibits a person engaged in the
7 business of furnishing appraisals of real property to take into consideration
8 factors other than an individual's consumption of medical cannabis in
9 accordance with the provisions of the Kansas equal access act, section 1 et
10 seq., and amendments thereto.

11 (3) As used in this subsection, "real estate related transaction" means
12 the same as that term is defined in K.S.A. 44-1017, and amendments
13 thereto.

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

19 (d) Nothing in this section shall be construed to prohibit a person
20 from taking any action necessary to procure or retain any monetary benefit
21 provided under federal law, or any rules and regulations adopted
22 thereunder, or to obtain or maintain any license, certificate, registration or
23 other legal status issued or bestowed under federal law, or any rules and
24 regulations adopted thereunder.

25 (e) The provisions of this section shall be a part of and supplement to
26 the Kansas act against discrimination.

27 New Sec. 29. (a) Any individual or group health insurance policy,
28 medical service plan, contract, hospital service corporation contract,
29 hospital and medical service corporation contract, fraternal benefit society
30 or health maintenance organization, municipal group-funded pool and the
31 state employee health care benefits plan shall not exclude coverage for an
32 insured individual solely on the basis that such insured individual
33 purchases, possesses or consumes medical cannabis in accordance with the
34 provisions of the Kansas equal access act, section 1 et seq., and
35 amendments thereto.

36 (b) No health insurance exchange established within this state or any
37 health insurance exchange administered by the federal government or its
38 agencies within this state shall exclude from coverage an insured
39 individual solely on the basis that such insured individual purchases,
40 possesses or consumes medical cannabis in accordance with the provisions
41 of the Kansas equal access act, section 1 et seq., and amendments thereto.

42 (c) Nothing in this section shall be construed to prohibit a person
43 from taking any action necessary to procure or retain any monetary benefit

1 provided under federal law, or any rules and regulations adopted
2 thereunder, or to obtain or maintain any license, certificate, registration or
3 other legal status issued or bestowed under federal law, or any rules and
4 regulations adopted thereunder.

5 New Sec. 30. No patient or caregiver issued an identification card
6 pursuant to section 10, and amendments thereto, shall be denied the ability
7 to purchase or possess a firearm, ammunition or firearm accessories solely
8 on the basis that such individual purchases, possesses or consumes medical
9 cannabis in accordance with the provisions of the Kansas equal access act,
10 section 1 et seq., and amendments thereto.

11 New Sec. 31. (a) A patient or caregiver holding an identification card
12 issued pursuant to section 10, and amendments thereto, shall not be denied
13 eligibility in any public assistance or social welfare programs including,
14 but not limited to, the state medical assistance program, the supplemental
15 nutrition assistance program, the women, infants and children nutrition
16 program and the temporary assistance for needy families program solely
17 on the basis that such individual purchases, possesses or consumes medical
18 cannabis in accordance with the provisions of the Kansas equal access act,
19 section 1 et seq., and amendments thereto.

20 (b) Nothing in this section shall be construed to require the state
21 medical assistance program or any other public assistance program to
22 reimburse an individual for the costs associated with the purchase,
23 possession or consumption of medical cannabis, unless otherwise required
24 by federal law.

25 (c) Nothing in this section shall be construed to prohibit a person
26 from taking any action necessary to procure or retain any monetary benefit
27 provided under federal law, or any rules and regulations adopted
28 thereunder, or to obtain or maintain any license, certificate, registration or
29 other legal status issued or bestowed under federal law, or any rules and
30 regulations adopted thereunder.

31 New Sec. 32. (a) The board of education of a school district may
32 prohibit the consumption of medical cannabis on the premises of any
33 school operated by such school district except by individuals holding an
34 identification card issued pursuant to section 10, and amendments thereto,
35 who consume medical cannabis through means other than smoking or
36 vaporizing medical cannabis.

37 (b) A student who is enrolled in a school district and who is a patient
38 holding an identification card issued pursuant to section 10, and
39 amendments thereto, shall be permitted to consume medical cannabis
40 administered by the school nurse or such student's parent or caregiver as
41 recommended by such student's medical provider.

42 (c) No student shall be denied participation in any curricular or
43 extracurricular activities solely on the basis that such student possesses or

1 consumes medical cannabis in accordance with the provisions of the
2 Kansas equal access act, section 1 et seq., and amendments thereto.

3 New Sec. 33. (a) The governing body, or the chief administrative
4 officer, if no governing body exists, of a postsecondary educational
5 institution, as defined in K.S.A. 74-3201b, and amendments thereto, shall
6 permit any student enrolled in such postsecondary educational institution
7 who is a patient holding an identification card issued pursuant to section
8 10, and amendments thereto, to possess and consume medical cannabis in
9 accordance with the provisions of the Kansas equal access act, section 1 et
10 seq., and amendments thereto.

11 (b) No student shall be denied participation in any curricular or
12 extracurricular activities solely on the basis that such student possesses or
13 consumes medical cannabis in accordance with the provisions of the
14 Kansas equal access act, section 1 et seq., and amendments thereto.

15 Sec. 34. K.S.A. 2019 Supp. 8-1567 is hereby amended to read as
16 follows: 8-1567. (a) Driving under the influence is operating or attempting
17 to operate any vehicle within this state while:

18 (1) The alcohol concentration in the person's blood or breath as
19 shown by any competent evidence, including other competent evidence, as
20 defined in K.S.A. 8-1013(f)(1), and amendments thereto, is 0.08 or more;

21 (2) the alcohol concentration in the person's blood or breath, as
22 measured within three hours of the time of operating or attempting to
23 operate a vehicle, is 0.08 or more;

24 (3) under the influence of alcohol to a degree that renders the person
25 incapable of safely driving a vehicle;

26 (4) under the influence of any drug or combination of drugs to a
27 degree that renders the person incapable of safely driving a vehicle; or

28 (5) under the influence of a combination of alcohol and any drug or
29 drugs to a degree that renders the person incapable of safely driving a
30 vehicle.

31 (b) (1) Driving under the influence is:

32 (A) On a first conviction a class B, nonperson misdemeanor. The
33 person convicted shall be sentenced to not less than 48 consecutive hours
34 nor more than six months' imprisonment, or in the court's discretion 100
35 hours of public service, and fined not less than \$750 nor more than \$1,000.
36 The person convicted shall serve at least 48 consecutive hours'
37 imprisonment or 100 hours of public service either before or as a condition
38 of any grant of probation or suspension, reduction of sentence or parole.
39 The court may place the person convicted under a house arrest program
40 pursuant to K.S.A. 2019 Supp. 21-6609, and amendments thereto, to serve
41 the remainder of the sentence only after such person has served 48
42 consecutive hours' imprisonment;

43 (B) on a second conviction a class A, nonperson misdemeanor. The

1 person convicted shall be sentenced to not less than 90 days nor more than
2 one year's imprisonment and fined not less than \$1,250 nor more than
3 \$1,750. The person convicted shall serve at least five consecutive days'
4 imprisonment before the person is granted probation, suspension or
5 reduction of sentence or parole or is otherwise released. The five days'
6 imprisonment mandated by this subsection may be served in a work
7 release program only after such person has served 48 consecutive hours'
8 imprisonment, provided such work release program requires such person
9 to return to confinement at the end of each day in the work release
10 program. The person convicted, if placed into a work release program,
11 shall serve a minimum of 120 hours of confinement. Such 120 hours of
12 confinement shall be a period of at least 48 consecutive hours of
13 imprisonment followed by confinement hours at the end of and continuing
14 to the beginning of the offender's work day. The court may place the
15 person convicted under a house arrest program pursuant to K.S.A. 2019
16 Supp. 21-6609, and amendments thereto, to serve the five days'
17 imprisonment mandated by this subsection only after such person has
18 served 48 consecutive hours' imprisonment. The person convicted, if
19 placed under house arrest, shall be monitored by an electronic monitoring
20 device, which verifies the offender's location. The offender shall serve a
21 minimum of 120 hours of confinement within the boundaries of the
22 offender's residence. Any exceptions to remaining within the boundaries of
23 the offender's residence provided for in the house arrest agreement shall
24 not be counted as part of the 120 hours;

25 (C) on a third conviction a class A, nonperson misdemeanor, except
26 as provided in subsection (b)(1)(D). The person convicted shall be
27 sentenced to not less than 90 days nor more than one year's imprisonment
28 and fined not less than \$1,750 nor more than \$2,500. The person convicted
29 shall not be eligible for release on probation, suspension or reduction of
30 sentence or parole until the person has served at least 90 days'
31 imprisonment. The 90 days' imprisonment mandated by this subsection
32 may be served in a work release program only after such person has served
33 48 consecutive hours' imprisonment, provided such work release program
34 requires such person to return to confinement at the end of each day in the
35 work release program. The person convicted, if placed into a work release
36 program, shall serve a minimum of 2,160 hours of confinement. Such
37 2,160 hours of confinement shall be a period of at least 48 consecutive
38 hours of imprisonment followed by confinement hours at the end of and
39 continuing to the beginning of the offender's work day. The court may
40 place the person convicted under a house arrest program pursuant to
41 K.S.A. 2019 Supp. 21-6609, and amendments thereto, to serve the 90 days'
42 imprisonment mandated by this subsection only after such person has
43 served 48 consecutive hours' imprisonment. The person convicted, if

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

7 (D) on a third conviction a nonperson felony if the person has a prior
8 conviction which occurred within the preceding 10 years, not including
9 any period of incarceration. The person convicted shall be sentenced to not
10 less than 90 days nor more than one year's imprisonment and fined not less
11 than \$1,750 nor more than \$2,500. The person convicted shall not be
12 eligible for release on probation, suspension or reduction of sentence or
13 parole until the person has served at least 90 days' imprisonment. The 90
14 days' imprisonment mandated by this subsection may be served in a work
15 release program only after such person has served 48 consecutive hours'
16 imprisonment, provided such work release program requires such person
17 to return to confinement at the end of each day in the work release
18 program. The person convicted, if placed into a work release program,
19 shall serve a minimum of 2,160 hours of confinement. Such 2,160 hours of
20 confinement shall be a period of at least 48 consecutive hours of
21 imprisonment followed by confinement hours at the end of and continuing
22 to the beginning of the offender's work day. The court may place the
23 person convicted under a house arrest program pursuant to K.S.A. 2019
24 Supp. 21-6609, and amendments thereto, to serve the 90 days'
25 imprisonment mandated by this subsection only after such person has
26 served 48 consecutive hours' imprisonment. The person convicted, if
27 placed under house arrest, shall be monitored by an electronic monitoring
28 device, which verifies the offender's location. The offender shall serve a
29 minimum of 2,160 hours of confinement within the boundaries of the
30 offender's residence. Any exceptions to remaining within the boundaries of
31 the offender's residence provided for in the house arrest agreement shall
32 not be counted as part of the 2,160 hours; and

33 (E) on a fourth or subsequent conviction a nonperson felony. The
34 person convicted shall be sentenced to not less than 90 days nor more than
35 one year's imprisonment and fined \$2,500. The person convicted shall not
36 be eligible for release on probation, suspension or reduction of sentence or
37 parole until the person has served at least 90 days' imprisonment. The 90
38 days' imprisonment mandated by this subsection may be served in a work
39 release program only after such person has served 72 consecutive hours'
40 imprisonment, provided such work release program requires such person
41 to return to confinement at the end of each day in the work release
42 program. The person convicted, if placed into a work release program,
43 shall serve a minimum of 2,160 hours of confinement. Such 2,160 hours of

1 confinement shall be a period of at least 72 consecutive hours of
2 imprisonment followed by confinement hours at the end of and continuing
3 to the beginning of the offender's work day. The court may place the
4 person convicted under a house arrest program pursuant to K.S.A. 2019
5 Supp. 21-6609, and amendments thereto, to serve the 90 days'
6 imprisonment mandated by this subsection only after such person has
7 served 72 consecutive hours' imprisonment. The person convicted, if
8 placed under house arrest, shall be monitored by an electronic monitoring
9 device, which verifies the offender's location. The offender shall serve a
10 minimum of 2,160 hours of confinement within the boundaries of the
11 offender's residence. Any exceptions to remaining within the boundaries of
12 the offender's residence provided for in the house arrest agreement shall
13 not be counted as part of the 2,160 hours.

14 (2) The court may order that the term of imprisonment imposed
15 pursuant to subsection (b)(1)(D) or (b)(1)(E) be served in a state facility in
16 the custody of the secretary of corrections in a facility designated by the
17 secretary for the provision of substance abuse treatment pursuant to the
18 provisions of K.S.A. 2019 Supp. 21-6804, and amendments thereto. The
19 person shall remain imprisoned at the state facility only while participating
20 in the substance abuse treatment program designated by the secretary and
21 shall be returned to the custody of the sheriff for execution of the balance
22 of the term of imprisonment upon completion of or the person's discharge
23 from the substance abuse treatment program. Custody of the person shall
24 be returned to the sheriff for execution of the sentence imposed in the
25 event the secretary of corrections determines: (A) That substance abuse
26 treatment resources or the capacity of the facility designated by the
27 secretary for the incarceration and treatment of the person is not available;
28 (B) the person fails to meaningfully participate in the treatment program of
29 the designated facility; (C) the person is disruptive to the security or
30 operation of the designated facility; or (D) the medical or mental health
31 condition of the person renders the person unsuitable for confinement at
32 the designated facility. The determination by the secretary that the person
33 either is not to be admitted into the designated facility or is to be
34 transferred from the designated facility is not subject to review. The sheriff
35 shall be responsible for all transportation expenses to and from the state
36 correctional facility.

37 (3) In addition, for any conviction pursuant to subsection (b)(1)(C),
38 (b)(1)(D) or (b)(1)(E), at the time of the filing of the judgment form or
39 journal entry as required by K.S.A. 22-3426 or K.S.A. 2019 Supp. 21-
40 6711, and amendments thereto, the court shall cause a certified copy to be
41 sent to the officer having the offender in charge. The court shall determine
42 whether the offender, upon release from imprisonment, shall be supervised
43 by community correctional services or court services based upon the risk

1 and needs of the offender. The risk and needs of the offender shall be
2 determined by use of a risk assessment tool specified by the Kansas
3 sentencing commission. The law enforcement agency maintaining custody
4 and control of a defendant for imprisonment shall cause a certified copy of
5 the judgment form or journal entry to be sent to the supervision office
6 designated by the court and upon expiration of the term of imprisonment
7 shall deliver the defendant to a location designated by the supervision
8 office designated by the court. After the term of imprisonment imposed by
9 the court, the person shall be placed on supervision to community
10 correctional services or court services, as determined by the court, for a
11 mandatory one-year period of supervision, which such period of
12 supervision shall not be reduced. During such supervision, the person shall
13 be required to participate in a multidisciplinary model of services for
14 substance use disorders facilitated by a Kansas department for aging and
15 disability services designated care coordination agency to include
16 assessment and, if appropriate, referral to a community based substance
17 use disorder treatment including recovery management and mental health
18 counseling as needed. The multidisciplinary team shall include the
19 designated care coordination agency, the supervision officer, the Kansas
20 department for aging and disability services designated treatment provider
21 and the offender. An offender for whom a warrant has been issued by the
22 court alleging a violation of this supervision shall be considered a fugitive
23 from justice if it is found that the warrant cannot be served. If it is found
24 the offender has violated the provisions of this supervision, the court shall
25 determine whether the time from the issuing of the warrant to the date of
26 the court's determination of an alleged violation, or any part of it, shall be
27 counted as time served on supervision. Any violation of the conditions of
28 such supervision may subject such person to revocation of supervision and
29 imprisonment in jail for the remainder of the period of imprisonment, the
30 remainder of the supervision period, or any combination or portion
31 thereof. The term of supervision may be extended at the court's discretion
32 beyond one year, and any violation of the conditions of such extended term
33 of supervision may subject such person to the revocation of supervision
34 and imprisonment in jail of up to the remainder of the original sentence,
35 not the term of the extended supervision.

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

42 (c) Any person 18 years of age or older convicted of violating this
43 section or an ordinance which prohibits the acts that this section prohibits

1 who had one or more children under the age of 18 years in the vehicle at
2 the time of the offense shall have such person's punishment enhanced by
3 one month of imprisonment. This imprisonment must be served
4 consecutively to any other minimum mandatory penalty imposed for a
5 violation of this section or an ordinance which prohibits the acts that this
6 section prohibits. Any enhanced penalty imposed shall not exceed the
7 maximum sentence allowable by law. During the service of the enhanced
8 penalty, the judge may order the person on house arrest, work release or
9 other conditional release.

10 (d) (1) If a person is charged with a violation of subsection (a)(4) or
11 (a)(5), the fact that the person is or has been entitled to use the drug under
12 the laws of this state shall not constitute a defense against the charge.

13 (2) *The fact that a person tests positive for the presence of cannabis*
14 *metabolites shall not constitute a violation of subsection (a)(4) or (a)(5).*

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

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

30 (g) Prior to filing a complaint alleging a violation of this section, a
31 prosecutor shall request and shall receive from the:

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

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

36 (h) The court shall electronically report every conviction of a
37 violation of this section and every diversion agreement entered into in lieu
38 of further criminal proceedings on a complaint alleging a violation of this
39 section to the division including any finding regarding the alcohol
40 concentration in the offender's blood or breath. Prior to sentencing under
41 the provisions of this section, the court shall request and shall receive from
42 the division a record of all prior convictions obtained against such person
43 for any violations of any of the motor vehicle laws of this state.

1 (i) For the purpose of determining whether a conviction is a first,
2 second, third, fourth or subsequent conviction in sentencing under this
3 section:

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

14 (2) any convictions for a violation of the following sections occurring
15 during a person's lifetime shall be taken into account: (A) Driving a
16 commercial motor vehicle under the influence, K.S.A. 8-2,144, and
17 amendments thereto; (B) operating a vessel under the influence of alcohol
18 or drugs, K.S.A. 32-1131, and amendments thereto; (C) involuntary
19 manslaughter while driving under the influence of alcohol or drugs, K.S.A.
20 21-3442, prior to its repeal, or K.S.A. 2019 Supp. 21-5405(a)(3) or (a)(5),
21 and amendments thereto; (D) aggravated battery as described in K.S.A.
22 2019 Supp. 21-5413(b)(3) or (b)(4), and amendments thereto; and (E)
23 aggravated vehicular homicide, K.S.A. 21-3405a, prior to its repeal, or
24 vehicular battery, K.S.A. 21-3405b, prior to its repeal, if the crime was
25 committed while committing a violation of K.S.A. 8-1567, and
26 amendments thereto;

27 (3) "conviction" includes: (A) Entering into a diversion agreement in
28 lieu of further criminal proceedings on a complaint alleging an offense
29 described in subsection (i)(2); and (B) conviction of a violation of an
30 ordinance of a city in this state, a resolution of a county in this state or any
31 law of another jurisdiction that would constitute an offense that is
32 comparable to the offense described in subsection (i)(1) or (i)(2);

33 (4) multiple convictions of any crime described in subsection (i)(1) or
34 (i)(2) arising from the same arrest shall only be counted as one conviction;

35 (5) it is irrelevant whether an offense occurred before or after
36 conviction for a previous offense; and

37 (6) a person may enter into a diversion agreement in lieu of further
38 criminal proceedings for a violation of this section, and amendments
39 thereto, or an ordinance which prohibits the acts of this section, and
40 amendments thereto, only once during the person's lifetime.

41 (j) For the purposes of determining whether an offense is comparable,
42 the following shall be considered:

43 (1) The name of the out-of-jurisdiction offense;

1 (2) the elements of the out-of-jurisdiction offense; and
2 (3) whether the out-of-jurisdiction offense prohibits similar conduct
3 to the conduct prohibited by the closest approximate Kansas offense.

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

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

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

19 (3) On and after July 1, 2007, and retroactive for ordinance violations
20 committed on or after July 1, 2006, an ordinance may grant to a municipal
21 court jurisdiction over a violation of such ordinance which is concurrent
22 with the jurisdiction of the district court over a violation of this section,
23 notwithstanding that the elements of such ordinance violation are the same
24 as the elements of a violation of this section that would constitute, and be
25 punished as, a felony.

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

29 (m) (1) Upon the filing of a complaint, citation or notice to appear
30 alleging a person has violated a city ordinance prohibiting the acts
31 prohibited by this section, and prior to conviction thereof, a city attorney
32 shall request and shall receive from the:

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

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

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

41 (n) No plea bargaining agreement shall be entered into nor shall any
42 judge approve a plea bargaining agreement entered into for the purpose of
43 permitting a person charged with a violation of this section, or a violation

1 of any ordinance of a city or resolution of any county in this state which
2 prohibits the acts prohibited by this section, to avoid the mandatory
3 penalties established by this section or by the ordinance. For the purpose
4 of this subsection, entering into a diversion agreement pursuant to K.S.A.
5 12-4413 et seq. or 22-2906 et seq., and amendments thereto, shall not
6 constitute plea bargaining.

7 (o) The alternatives set out in subsection (a) may be pleaded in the
8 alternative, and the state, city or county may, but shall not be required to,
9 elect one or more of such alternatives prior to submission of the case to the
10 fact finder.

11 (p) As used in this section: (1) "Alcohol concentration" means the
12 number of grams of alcohol per 100 milliliters of blood or per 210 liters of
13 breath;

14 (2) "imprisonment" ~~shall include~~ *includes* any restrained environment
15 in which the court and law enforcement agency intend to retain custody
16 and control of a defendant and such environment has been approved by the
17 board of county commissioners or the governing body of a city; and

18 (3) "drug" includes toxic vapors as such term is defined in K.S.A.
19 2019 Supp. 21-5712, and amendments thereto.

20 (q) (1) The amount of the increase in fines as specified in this section
21 shall be remitted by the clerk of the district court to the state treasurer in
22 accordance with the provisions of K.S.A. 75-4215, and amendments
23 thereto. Upon receipt of remittance of the increase provided in this act, the
24 state treasurer shall deposit the entire amount in the state treasury and the
25 state treasurer shall credit 50% to the community alcoholism and
26 intoxication programs fund and 50% to the department of corrections
27 alcohol and drug abuse treatment fund, which is hereby created in the state
28 treasury.

29 (2) On and after July 1, 2011, the amount of \$250 from each fine
30 imposed pursuant to this section shall be remitted by the clerk of the
31 district court to the state treasurer in accordance with the provisions of
32 K.S.A. 75-4215, and amendments thereto. Upon receipt of each such
33 remittance, the state treasurer shall credit the entire amount to the
34 community corrections supervision fund established by K.S.A. 75-52,113,
35 and amendments thereto.

36 Sec. 35. K.S.A. 2019 Supp. 21-5703 is hereby amended to read as
37 follows: 21-5703. (a) It shall be unlawful for any person to manufacture
38 any controlled substance or controlled substance analog.

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

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

42 (2) drug severity level 1 felony if:

43 (A) The controlled substance is not methamphetamine, as defined by

1 ~~subsection (d)(3) or (f)(1) of K.S.A. 65-4107(d)(3) or (f)(1), and~~
2 amendments thereto, or an analog thereof; and

3 (B) the offender has a prior conviction for unlawful manufacturing of
4 a controlled substance under this section, K.S.A. 65-4159, prior to its
5 repeal, K.S.A. 2010 Supp. 21-36a03, prior to its transfer, or a substantially
6 similar offense from another jurisdiction and the substance was not
7 methamphetamine, as defined by ~~subsection (d)(3) or (f)(1) of K.S.A. 65-~~
8 ~~4107(d)(3) or (f)(1), and amendments thereto, or an analog thereof, in any~~
9 such prior conviction; and

10 (3) drug severity level 1 felony if the controlled substance is
11 methamphetamine, as defined by ~~subsection (d)(3) or (f)(1) of K.S.A. 65-~~
12 ~~4107(d)(3) or (f)(1), and amendments thereto, or an analog thereof.~~

13 (c) The provisions of ~~subsection (d) of K.S.A. 2019 Supp. 21-~~
14 ~~5301(d), and amendments thereto, shall not apply to a violation of~~
15 attempting to unlawfully manufacture any controlled substance or
16 controlled substance analog pursuant to this section.

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

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

27 (f) The sentence of a person who violates this section, K.S.A. 65-
28 4159, prior to its repeal or K.S.A. 2010 Supp. 21-36a03, prior to its
29 transfer, shall not be reduced because these sections prohibit conduct
30 identical to that prohibited by K.S.A. 65-4161 or 65-4163, prior to their
31 repeal, K.S.A. 2010 Supp. 21-36a05, prior to its transfer, or K.S.A. 2019
32 Supp. 21-5705, and amendments thereto.

33 (g) *The provisions of this section shall not apply to a facility licensed*
34 *by the director of the Kansas medical cannabis agency pursuant to section*
35 *16, and amendments thereto, that is producing medical cannabis or*
36 *medical cannabis products, as such terms are defined in section 2, and*
37 *amendments thereto, when used for acts authorized by the Kansas equal*
38 *access act, section 1 et seq., and amendments thereto.*

39 Sec. 36. K.S.A. 2019 Supp. 21-5705 is hereby amended to read as
40 follows: 21-5705. (a) It shall be unlawful for any person to distribute or
41 possess with the intent to distribute any of the following controlled
42 substances or controlled substance analogs thereof:

43 (1) Opiates, opium or narcotic drugs, or any stimulant designated in

1 ~~subsection (d)(1), (d)(3) or (f)(1) of K.S.A. 65-4107(d)(1), (d)(3) or (f)(1),~~
2 and amendments thereto;

3 (2) any depressant designated in ~~subsection (e) of K.S.A. 65-4105(e),~~
4 ~~subsection (e) of K.S.A. 65-4107(e), subsection (b) or (c) of K.S.A. 65-~~
5 ~~4109(b) or (c) or subsection (b) of K.S.A. 65-4111(b),~~ and amendments
6 thereto;

7 (3) any stimulant designated in ~~subsection (f) of K.S.A. 65-4105(f),~~
8 ~~subsection (d)(2), (d)(4), (d)(5) or (f)(2) of K.S.A. 65-4107(d)(2), (d)(4),~~
9 ~~(d)(5) or (f)(2) or subsection (e) of K.S.A. 65-4109(e),~~ and amendments
10 thereto;

11 (4) any hallucinogenic drug designated in ~~subsection (d) of K.S.A.~~
12 ~~65-4105(d), subsection (g) of K.S.A. 65-4107(g) or subsection (g) of~~
13 ~~K.S.A. 65-4109(g),~~ and amendments thereto;

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

17 (6) any anabolic steroids as defined in ~~subsection (f) of K.S.A. 65-~~
18 ~~4109(f),~~ and amendments thereto; or

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

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

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

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

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

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

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

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

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

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

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

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

43 (D) drug severity level 1 felony if the quantity of the material was 30

1 kilograms or more.

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

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

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

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

13 (D) drug severity level 1 felony if the quantity of the material was
14 100 grams or more.

15 (4) Violation of subsection (a) with respect to material containing any
16 quantity of a controlled substance designated in K.S.A. 65-4105, 65-4107,
17 65-4109 or 65-4111, and amendments thereto, or an analog thereof,
18 distributed by dosage unit, is a:

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

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

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

25 (D) drug severity level 1 felony if the number of dosage units was
26 1,000 or more.

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

31 (6) Violation of subsection (b) is a:

32 (A) Class A person misdemeanor, except as provided in ~~subsection~~
33 ~~(d)(6)(B)~~ *subparagraph (B)*; and

34 (B) nondrug severity level 7, person felony if the substance was
35 distributed to or possessed with the intent to distribute to a minor.

36 (7) Violation of subsection (c) is a:

37 (A) Drug severity level 3 felony if the number of plants cultivated
38 was more than 4 but fewer than 50;

39 (B) drug severity level 2 felony if the number of plants cultivated was
40 at least 50 but fewer than 100; and

41 (C) drug severity level 1 felony if the number of plants cultivated was
42 100 or more.

43 (e) In any prosecution under this section, there shall be a rebuttable

1 presumption of an intent to distribute if any person possesses the following
 2 quantities of controlled substances or analogs thereof:

- 3 (1) 450 grams or more of marijuana;
- 4 (2) 3.5 grams or more of heroin or methamphetamine;
- 5 (3) 100 dosage units or more containing a controlled substance; or
- 6 (4) 100 grams or more of any other controlled substance.

7 (f) It shall not be a defense to charges arising under this section that
 8 the defendant:

- 9 (1) Was acting in an agency relationship on behalf of any other party
 10 in a transaction involving a controlled substance or controlled substance
 11 analog;
- 12 (2) did not know the quantity of the controlled substance or
 13 controlled substance analog; or
- 14 (3) did not know the specific controlled substance or controlled
 15 substance analog contained in the material that was distributed or
 16 possessed with the intent to distribute.

17 (g) *The provisions of subsections (a)(4) and (a)(5) shall not apply to*
 18 *any facility licensed by the director of the Kansas medical cannabis*
 19 *agency pursuant to section 16, and amendments thereto, or any employee*
 20 *or agent thereof, that is growing, testing, processing or engaging in the*
 21 *sale of medical cannabis or medical cannabis products in a manner*
 22 *authorized by the Kansas equal access act, section 1 et seq., and*
 23 *amendments thereto.*

24 (h) As used in this section:

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

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

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

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

42 (C) For lysergic acid diethylamide (LSD) in liquid form, or an analog
 43 thereof, a dosage unit is defined as 0.4 milligrams, including the liquid

1 medium.

2 (3) *"Medical cannabis" and "medical cannabis product" mean the*
3 *same as such terms are defined in section 2, and amendments thereto.*

4 Sec. 37. K.S.A. 2019 Supp. 21-5706 is hereby amended to read as
5 follows: 21-5706. (a) It shall be unlawful for any person to possess any
6 opiates, opium or narcotic drugs, or any stimulant designated in K.S.A. 65-
7 4107(d)(1), (d)(3) or (f)(1), and amendments thereto, or a controlled
8 substance analog thereof.

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

11 (1) Any depressant designated in K.S.A. 65-4105(e), 65-4107(e), 65-
12 4109(b) or (c) or 65-4111(b), and amendments thereto;

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

15 (3) any hallucinogenic drug designated in K.S.A. 65-4105(d), 65-
16 4107(g) or 65-4109(g), and amendments thereto;

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

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

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

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

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

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

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

29 (B) violation of subsection (b)(1) through (b)(5) or (b)(7) is a drug
30 severity level 5 felony if that person has a prior conviction under such
31 subsection, under K.S.A. 65-4162, prior to its repeal, under a substantially
32 similar offense from another jurisdiction, or under any city ordinance or
33 county resolution for a substantially similar offense if the substance
34 involved was 3, 4-methylenedioxyamphetamine (MDMA), marijuana
35 as designated in K.S.A. 65-4105(d), and amendments thereto, or any
36 substance designated in K.S.A. 65-4105(h), and amendments thereto, or an
37 analog thereof.

38 (3) If the substance involved is marijuana, as designated in K.S.A.
39 65-4105(d), and amendments thereto, or tetrahydrocannabinols, as
40 designated in K.S.A. 65-4105(h), and amendments thereto, violation of
41 subsection (b) is a:

42 (A) Class B nonperson misdemeanor, except as provided in
43 subparagraphs (B) and (C);

1 (B) class A nonperson misdemeanor if that person has a prior
2 conviction under such subsection, under K.S.A. 65-4162, prior to its
3 repeal, under a substantially similar offense from another jurisdiction, or
4 under any city ordinance or county resolution for a substantially similar
5 offense; and

6 (C) drug severity level 5 felony if that person has two or more prior
7 convictions under such subsection, under K.S.A. 65-4162, prior to its
8 repeal, under a substantially similar offense from another jurisdiction, or
9 under any city ordinance or county resolution for a substantially similar
10 offense.

11 ~~(d) It shall be an affirmative defense to prosecution under this section
12 arising out of a person's possession of any cannabidiol treatment
13 preparation if the person:~~

14 ~~(1) Has a debilitating medical condition, as defined in K.S.A. 2019
15 Supp. 65-6235, and amendments thereto, or is the parent or guardian of a
16 minor child who has such debilitating medical condition;~~

17 ~~(2) is possessing a cannabidiol treatment preparation, as defined in
18 K.S.A. 2019 Supp. 65-6235, and amendments thereto, that is being used to
19 treat such debilitating medical condition; and~~

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

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

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

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

28 ~~(D) identifies the person or the person's minor child as such
29 physician's patient and identifies the patient's debilitating medical
30 condition~~

31 ~~*If the substance involved is medical cannabis, as defined in*~~
32 ~~*section 2, and amendments thereto, the provisions of subsections (b) and*~~
33 ~~*(c) shall not apply to any person who is a patient or caregiver holding an*~~
34 ~~*identification card issued pursuant to section 10, and amendments thereto,*~~
35 ~~*or a facility licensed by the director of the Kansas medical cannabis*~~
36 ~~*agency pursuant to section 16, and amendments thereto, or any employee*~~
37 ~~*or agent thereof, and whose possession is authorized by the Kansas equal*~~
38 ~~*access act, section 1 et seq., and amendments thereto.*~~

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

43 Sec. 38. K.S.A. 2019 Supp. 21-5707 is hereby amended to read as
44 follows: 21-5707. (a) It shall be unlawful for any person to knowingly or

1 intentionally use any communication facility:

2 (1) In committing, causing, or facilitating the commission of any
3 felony under K.S.A. 2019 Supp. 21-5703, 21-5705 or 21-5706, and
4 amendments thereto; or

5 (2) in any attempt to commit, any conspiracy to commit, or any
6 criminal solicitation of any felony under K.S.A. 2019 Supp. 21-5703, 21-
7 5705 or 21-5706, and amendments thereto. Each separate use of a
8 communication facility may be charged as a separate offense under this
9 subsection.

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

12 (c) *The provisions of this section shall not apply to any person using*
13 *communication facilities for those activities authorized by the Kansas*
14 *equal access act, section 1 et seq., and amendments thereto.*

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

20 Sec. 39. K.S.A. 2019 Supp. 21-5709 is hereby amended to read as
21 follows: 21-5709. (a) It shall be unlawful for any person to possess
22 ephedrine, pseudoephedrine, red phosphorus, lithium metal, sodium metal,
23 iodine, anhydrous ammonia, pressurized ammonia or
24 phenylpropanolamine, or their salts, isomers or salts of isomers with an
25 intent to use the product to manufacture a controlled substance.

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

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

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

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

35 (d) It shall be unlawful for any person to purchase, receive or
36 otherwise acquire at retail any compound, mixture or preparation
37 containing more than 3.6 grams of pseudoephedrine base or ephedrine
38 base in any single transaction or any compound, mixture or preparation
39 containing more than nine grams of pseudoephedrine base or ephedrine
40 base within any 30-day period.

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

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

43 (A) Drug severity level 5 felony, except as provided in subsection (e)

1 (2)(B); and

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

4 (3) violation of subsection (b)(2) is a class B nonperson
 5 misdemeanor;

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

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

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

15 *(g) The provisions of subsection (b) shall not apply to any person*
 16 *who is a patient or caregiver holding an identification card issued*
 17 *pursuant to section 10, and amendments thereto, or a facility licensed by*
 18 *the director of the Kansas medical cannabis agency pursuant to section*
 19 *16, and amendments thereto, or any employee or agent thereof, and whose*
 20 *possession is authorized by the Kansas equal access act, section 1 et seq.,*
 21 *and amendments thereto.*

22 Sec. 40. K.S.A. 2019 Supp. 21-5710 is hereby amended to read as
 23 follows: 21-5710. (a) It shall be unlawful for any person to advertise,
 24 market, label, distribute or possess with the intent to distribute:

25 (1) Any product containing ephedrine, pseudoephedrine, red
 26 phosphorus, lithium metal, sodium metal, iodine, anhydrous ammonia,
 27 pressurized ammonia or phenylpropanolamine or their salts, isomers or
 28 salts of isomers if the person knows or reasonably should know that the
 29 purchaser will use the product to manufacture a controlled substance or
 30 controlled substance analog; or

31 (2) any product containing ephedrine, pseudoephedrine or
 32 phenylpropanolamine, or their salts, isomers or salts of isomers for
 33 indication of stimulation, mental alertness, weight loss, appetite control,
 34 energy or other indications not approved pursuant to the pertinent federal
 35 over-the-counter drug final monograph or tentative final monograph or
 36 approved new drug application.

37 (b) It shall be unlawful for any person to distribute, possess with the
 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 to manufacture or distribute a controlled
 41 substance or controlled substance analog in violation of K.S.A. 2019 Supp.
 42 21-5701 through 21-5717, and amendments thereto.

43 (c) It shall be unlawful for any person to distribute, possess with

1 intent to distribute or manufacture with intent to distribute any drug
2 paraphernalia, knowing or under circumstances where one reasonably
3 should know, that it will be used as such in violation of K.S.A. 2019 Supp.
4 21-5701 through 21-5717, and amendments thereto, ~~except subsection (b)~~
5 ~~of K.S.A. 2019 Supp. 21-5706(b), and amendments thereto.~~

6 (d) It shall be unlawful for any person to distribute, possess with
7 intent to distribute or manufacture with intent to distribute any drug
8 paraphernalia, knowing, or under circumstances where one reasonably
9 should know, that it will be used as such in violation of ~~subsection (b)~~ of
10 K.S.A. 2019 Supp. 21-5706(b), and amendments thereto.

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

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

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

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

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

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

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

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

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

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

31 (f) For persons arrested and charged under subsection (a), bail shall
32 be at least \$50,000 cash or surety, and such person shall not be released
33 upon 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 (g) *The provisions of subsection (c) shall not apply to any facility*
39 *licensed by the director of the Kansas medical cannabis agency pursuant*
40 *to section 16, and amendments thereto, or any employee or agent thereof,*
41 *and whose distribution or manufacture is authorized by the Kansas equal*
42 *access act, section 1 et seq., and amendments thereto.*

43 (h) As used in this section, "or under circumstances where one

1 reasonably should know" that an item will be used in violation of this
2 section, shall include, but not be limited to, the following:

3 (1) Actual knowledge from prior experience or statements by
4 customers;

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

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

9 (4) receipt of a written warning from a law enforcement or
10 prosecutorial agency having jurisdiction that the item has been previously
11 determined to have been designed specifically for use as drug
12 paraphernalia.

13 Sec. 41. K.S.A. 2019 Supp. 21-6109 is hereby amended to read as
14 follows: 21-6109. As used in K.S.A. 2019 Supp. 21-6109 through 21-6116,
15 and amendments thereto:

16 (a) "Access point" means the area within a ten foot radius outside of
17 any doorway, open window or air intake leading into a building or facility
18 that is not exempted pursuant to K.S.A. 2019 Supp. 21-6110(d), and
19 amendments thereto.

20 (b) "Bar" means any indoor area that is operated and licensed for the
21 sale and service of alcoholic beverages, including alcoholic liquor as
22 defined in K.S.A. 41-102, and amendments thereto, or cereal malt
23 beverages as defined in K.S.A. 41-2701, and amendments thereto, for on-
24 premises consumption.

25 (c) "*Cannabis*" and "*medical cannabis product*" mean the same as
26 such terms are defined in section 2, and amendments thereto.

27 (d) "*Electronic cigarette*" means the same as such term is defined in
28 K.S.A. 79-3301, and amendments thereto.

29 ~~(e)~~(e) "Employee" means any person who is employed by an
30 employer in consideration for direct or indirect monetary wages or profit
31 and any person who volunteers their services for a nonprofit entity.

32 ~~(f)~~(f) "Employer" means any person, partnership, corporation,
33 association or organization, including municipal or nonprofit entities, that
34 employs one or more individual persons.

35 ~~(g)~~(g) "Enclosed area" means all space between a floor and ceiling
36 that is enclosed on all sides by solid walls, windows or doorways that
37 extend from the floor to the ceiling, including all space therein screened by
38 partitions that do not extend to the ceiling or are not solid or similar
39 structures. For purposes of this section, the following shall not be
40 considered an "enclosed area": (1) Rooms or areas, enclosed by walls,
41 windows or doorways, having neither a ceiling nor a roof and that are
42 completely open to the elements and weather at all times; and (2) rooms or
43 areas, enclosed by walls, fences, windows or doorways and a roof or

1 ceiling, having openings that are permanently open to the elements and
2 weather and that comprise an area that is at least 30% of the total
3 perimeter wall area of such room or area.

4 ~~(f)~~(h) "Food service establishment" means any place in which food is
5 served or is prepared for sale or service on the premises. Such term shall
6 include, but not be limited to, fixed or mobile restaurants, coffee shops,
7 cafeterias, short-order cafes, luncheonettes, grills, tea rooms, sandwich
8 shops, soda fountains, taverns, private clubs, roadside kitchens,
9 commissaries and any other private, public or nonprofit organization or
10 institution routinely serving food and any other eating or drinking
11 establishment or operation where food is served or provided for the public
12 with or without charge.

13 ~~(g)~~(i) "Gaming floor" means the area of a lottery gaming facility or
14 racetrack gaming facility, as those terms are defined in K.S.A. 74-8702,
15 and amendments thereto, where patrons engage in Class III gaming. The
16 gaming floor shall not include any areas used for accounting, maintenance,
17 surveillance, security, administrative offices, storage, cash or cash
18 counting, records, food service, lodging or entertainment, except that the
19 gaming floor may include a bar where alcoholic beverages are served so
20 long as the bar is located entirely within the area where Class III gaming is
21 conducted.

22 ~~(h)~~(j) "Medical care facility" means a physician's office, general
23 hospital, special hospital, ambulatory surgery center or recuperation center,
24 as defined by K.S.A. 65-425, and amendments thereto, and any psychiatric
25 hospital licensed under K.S.A. 2019 Supp. 39-2001 et seq., and
26 amendments thereto.

27 ~~(i)~~(k) "Outdoor recreational facility" means a hunting, fishing,
28 shooting or golf club, business or enterprise operated primarily for the
29 benefit of its owners, members and their guests and not normally open to
30 the general public.

31 ~~(j)~~(l) "Place of employment" means any enclosed area under the
32 control of a public or private employer, including, but not limited to, work
33 areas, auditoriums, elevators, private offices, employee lounges and
34 restrooms, conference and meeting rooms, classrooms, employee
35 cafeterias, stairwells and hallways, that is used by employees during the
36 course of employment. For purposes of this section, a private residence
37 shall not be considered a "place of employment" unless such residence is
38 used as a day care home, as defined in K.S.A. 65-530, and amendments
39 thereto.

40 ~~(k)~~(m) "Private club" means an outdoor recreational facility operated
41 primarily for the use of its owners, members and their guests that in its
42 ordinary course of business is not open to the general public for which use
43 of its facilities has substantial dues or membership fee requirements for its

1 members.

2 ~~(h)~~(n) "Public building" means any building owned or operated by: (1)
3 The state, including any branch, department, agency, bureau, commission,
4 authority or other instrumentality thereof; (2) any county, city, township,
5 other political subdivision, including any commission, authority, agency or
6 instrumentality thereof; or (3) any other separate corporate instrumentality
7 or unit of the state or any municipality.

8 ~~(m)~~(o) "Public meeting" means any meeting open to the public
9 pursuant to K.S.A. 75-4317 et seq., and amendments thereto, or any other
10 law of this state.

11 ~~(n)~~(p) "Public place" means any enclosed areas open to the public or
12 used by the general public including, but not limited to: Banks, bars, food
13 service establishments, retail service establishments, retail stores, public
14 means of mass transportation, passenger elevators, health care institutions
15 or any other place where health care services are provided to the public,
16 medical care facilities, educational facilities, libraries, courtrooms, public
17 buildings, restrooms, grocery stores, school buses, museums, theaters,
18 auditoriums, arenas and recreational facilities. For purposes of this section,
19 a private residence shall not be considered a "public place" unless such
20 residence is used as a day care home, as defined in K.S.A. 65-530, and
21 amendments thereto.

22 ~~(o)~~(q) "Smoking" means possession of a lighted cigarette, cigar, pipe
23 or burning tobacco *or cannabis* in any other form or device designed for
24 the use of tobacco *or cannabis*, *or use of an electronic cigarette, including*
25 *for the consumption of a medical cannabis product.*

26 ~~(p)~~(r) "Tobacco shop" means any indoor area operated primarily for
27 the retail sale of tobacco, tobacco products or smoking devices or
28 accessories, and that derives not less than 65% of its gross receipts from
29 the sale of tobacco.

30 ~~(q)~~(s) "Substantial dues or membership fee requirements" means
31 initiation costs, dues or fees proportional to the cost of membership in
32 similarly-situated outdoor recreational facilities that are not considered
33 nominal and implemented to otherwise avoid or evade restrictions of a
34 statewide ban on smoking.

35 Sec. 42. K.S.A. 2019 Supp. 23-3201 is hereby amended to read as
36 follows: 23-3201. (a) The court shall determine legal custody, residency
37 and parenting time of a child in accordance with the best interests of the
38 child.

39 (b) *The court shall not consider the fact that a parent or a child*
40 *consumes medical cannabis in accordance with the provisions of the*
41 *Kansas equal access act, section 1 et seq., and amendments thereto, when*
42 *determining the legal custody, residency or parenting time of a child.*

43 Sec. 43. K.S.A. 2019 Supp. 38-2269 is hereby amended to read as

1 follows: 38-2269. (a) When the child has been adjudicated to be a child in
2 need of care, the court may terminate parental rights or appoint a
3 permanent custodian when the court finds by clear and convincing
4 evidence that the parent is unfit by reason of conduct or condition which
5 renders the parent unable to care properly for a child and the conduct or
6 condition is unlikely to change in the foreseeable future.

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

9 (1) Emotional illness, mental illness, mental deficiency or physical
10 disability of the parent, of such duration or nature as to render the parent
11 unable to care for the ongoing physical, mental and emotional needs of the
12 child;

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

15 (3) the use of intoxicating liquors or narcotic or dangerous drugs of
16 such duration or nature as to render the parent unable to care for the
17 ongoing physical, mental or emotional needs of the child, *except the use of*
18 *medical cannabis in accordance with the provisions of the Kansas equal*
19 *access act, section 1 et seq., and amendments thereto, shall not be*
20 *considered to render the parent unable to care for the ongoing physical,*
21 *mental or emotional needs of the child;*

22 (4) physical, mental or emotional abuse or neglect or sexual abuse of
23 a child;

24 (5) conviction of a felony and imprisonment;

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

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

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

31 (9) whether, as a result of the actions or inactions attributable to the
32 parent and one or more of the factors listed in subsection (c) apply, the
33 child has been in the custody of the secretary and placed with neither
34 parent for 15 of the most recent 22 months beginning 60 days after the
35 date on which a child in the secretary's custody was removed from the
36 child's home.

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

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

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

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

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

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

7 (d) A finding of unfitness may be made as provided in this section if
8 the court finds that the parents have abandoned the child, the custody of
9 the child was surrendered pursuant to K.S.A. 2019 Supp. 38-2282, and
10 amendments thereto, or the child was left under such circumstances that
11 the identity of the parents is unknown and cannot be ascertained, despite
12 diligent searching, and the parents have not come forward to claim the
13 child within three months after the child is found.

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

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

22 (g) (1) If the court makes a finding of unfitness, the court shall
23 consider whether termination of parental rights as requested in the petition
24 or motion is in the best interests of the child. In making the determination,
25 the court shall give primary consideration to the physical, mental and
26 emotional health of the child. If the physical, mental or emotional needs of
27 the child would best be served by termination of parental rights, the court
28 shall so order. A termination of parental rights under the code shall not
29 terminate the right of a child to inherit from or through a parent. Upon
30 such termination all rights of the parent to such child, including, such
31 parent's right to inherit from or through such child, shall cease.

32 (2) If the court terminates parental rights, the court may authorize
33 adoption pursuant to K.S.A. 2019 Supp. 38-2270, and amendments
34 thereto, appointment of a permanent custodian pursuant to K.S.A. 2019
35 Supp. 38-2272, and amendments thereto, or continued permanency
36 planning.

37 (3) If the court does not terminate parental rights, the court may
38 authorize appointment of a permanent custodian pursuant to K.S.A. 2019
39 Supp. 38-2272, and amendments thereto, or continued permanency
40 planning.

41 (h) If a parent is convicted of an offense as provided in K.S.A. 2019
42 Supp. 38-2271(a)(7), and amendments thereto, or is adjudicated a juvenile
43 offender because of an act which if committed by an adult would be an

1 offense as provided in K.S.A. 2019 Supp. 38-2271(a)(7), and amendments
2 thereto, and if the victim was the other parent of a child, the court may
3 disregard such convicted or adjudicated parent's opinions or wishes in
4 regard to the placement of such child.

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

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

11 Sec. 44. K.S.A. 2019 Supp. 44-501 is hereby amended to read as
12 follows: 44-501. (a) (1) Compensation for an injury shall be disallowed if
13 such injury to the employee results from:

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

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

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

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

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

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

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

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

1 (ii) In the case of marijuana or any other form of cannabis, including
 2 any cannabis derivatives, compensation shall not be denied if the
 3 employee is a patient holding an identification card issued pursuant to
 4 section 10, and amendments thereto, such cannabis was used in
 5 accordance with the Kansas equal access act, section 1 et seq., and
 6 amendments thereto, and there have been no prior incidences of the
 7 employee's impairment on the job as a result of the use of such cannabis
 8 or cannabis derivative within the previous 24 months.

9 (C) It shall be conclusively presumed that the employee was impaired
 10 due to alcohol or drugs if it is shown that, at the time of the injury, the
 11 employee had an alcohol concentration of .04 or more, or a GCMS
 12 confirmatory test by quantitative analysis showing a concentration at or
 13 above the levels shown on the following chart for the drugs of abuse listed:

	Confirmatory test cutoff levels (ng/ml)
17 Marijuana metabolite ¹	15
18 Cocaine metabolite ²	150
19 Opiates:	
20 Morphine	2000
21 Codeine	2000
22 6-Acetylmorphine ⁴	10 ng/ml
23 Phencyclidine	25
24 Amphetamines:	
25 Amphetamine	500
26 Methamphetamine ³	500

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

28 ² Benzoylcegonine.

29 ³ Specimen must also contain amphetamine at a concentration greater
 30 than or equal to 200 ng/ml.

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

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

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

42 (2) The results of a chemical test shall be admissible evidence to
 43 prove impairment if the employer establishes that the testing was done

1 under any of the following circumstances:

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

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

8 (C) the worker, prior to the date and time of the accident or injury,
9 gave written consent to the employer that the worker would voluntarily
10 submit to a chemical test for drugs or alcohol following any accident or
11 injury;

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

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

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

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

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

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

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

33 (E) the foundation evidence must establish, beyond a reasonable
34 doubt, that the test results were from the sample taken from the employee;
35 and

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

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

43 (2) For events occurring on or after July 1, 2014, in the case of a

1 firefighter as defined by K.S.A. 40-1709(b)(1), and amendments thereto,
2 or a law enforcement officer as defined by K.S.A. 74-5602, and
3 amendments thereto, coronary or coronary artery disease or
4 cerebrovascular injury shall be compensable if:

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

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

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

11 (d) Except as provided in the workers compensation act, no
12 construction design professional who is retained to perform professional
13 services on a construction project or any employee of a construction
14 design professional who is assisting or representing the construction
15 design professional in the performance of professional services on the site
16 of the construction project, shall be liable for any injury resulting from the
17 employer's failure to comply with safety standards on the construction
18 project for which compensation is recoverable under the workers
19 compensation act, unless responsibility for safety practices is specifically
20 assumed by contract. The immunity provided by this subsection to any
21 construction design professional shall not apply to the negligent
22 preparation of design plans or specifications.

23 (e) An award of compensation for permanent partial impairment,
24 work disability, or permanent total disability shall be reduced by the
25 amount of functional impairment determined to be preexisting. Any such
26 reduction shall not apply to temporary total disability, nor shall it apply to
27 compensation for medical treatment.

28 (1) Where workers compensation benefits have previously been
29 awarded through settlement or judicial or administrative determination in
30 Kansas, the percentage basis of the prior settlement or award shall
31 conclusively establish the amount of functional impairment determined to
32 be preexisting. Where workers compensation benefits have not previously
33 been awarded through settlement or judicial or administrative
34 determination in Kansas, the amount of preexisting functional impairment
35 shall be established by competent evidence.

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

38 (A) If the preexisting impairment is the result of injury sustained
39 while working for the employer against whom workers compensation
40 benefits are currently being sought, any award of compensation shall be
41 reduced by the current dollar value attributable under the workers
42 compensation act to the percentage of functional impairment determined to
43 be preexisting. The "current dollar value" shall be calculated by

1 multiplying the percentage of preexisting impairment by the compensation
2 rate in effect on the date of the accident or injury against which the
3 reduction will be applied.

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

7 (f) If the employee receives, whether periodically or by lump sum,
8 retirement benefits under the federal social security act or retirement
9 benefits from any other retirement system, program, policy or plan ~~which~~
10 *that* is provided by the employer against which the claim is being made,
11 any compensation benefit payments which the employee is eligible to
12 receive under the workers compensation act for such claim shall be
13 reduced by the weekly equivalent amount of the total amount of all such
14 retirement benefits, less any portion of any such retirement benefit, other
15 than retirement benefits under the federal social security act, that is
16 attributable to payments or contributions made by the employee, but in no
17 event shall the workers compensation benefit be less than the workers
18 compensation benefit payable for the employee's percentage of functional
19 impairment. Where the employee elects to take retirement benefits in a
20 lump sum, the lump sum payment shall be amortized at the rate of 4% per
21 year over the employee's life expectancy to determine the weekly
22 equivalent value of the benefits.

23 Sec. 45. K.S.A. 2019 Supp. 44-706 is hereby amended to read as
24 follows: 44-706. The secretary shall examine whether an individual has
25 separated from employment for each week claimed. The secretary shall
26 apply the provisions of this section to the individual's most recent
27 employment prior to the week claimed. An individual shall be disqualified
28 for benefits:

29 (a) If the individual left work voluntarily without good cause
30 attributable to the work or the employer, subject to the other provisions of
31 this subsection. For purposes of this subsection, "good cause" is cause of
32 such gravity that would impel a reasonable, not supersensitive, individual
33 exercising ordinary common sense to leave employment. Good cause
34 requires a showing of good faith of the individual leaving work, including
35 the presence of a genuine desire to work. Failure to return to work after
36 expiration of approved personal or medical leave, or both, shall be
37 considered a voluntary resignation. After a temporary job assignment,
38 failure of an individual to affirmatively request an additional assignment
39 on the next succeeding workday, if required by the employment
40 agreement, after completion of a given work assignment, shall constitute
41 leaving work voluntarily. The disqualification shall begin the day
42 following the separation and shall continue until after the individual has
43 become reemployed and has had earnings from insured work of at least

1 three times the individual's weekly benefit amount. An individual shall not
2 be disqualified under this subsection if:

3 (1) The individual was forced to leave work because of illness or
4 injury upon the advice of a licensed and practicing health care provider
5 and, upon learning of the necessity for absence, immediately notified the
6 employer thereof, or the employer consented to the absence, and after
7 recovery from the illness or injury, when recovery was certified by a
8 practicing health care provider, the individual returned to the employer and
9 offered to perform services and the individual's regular work or
10 comparable and suitable work was not available. As used in this paragraph
11 "health care provider" means any person licensed by the proper licensing
12 authority of any state to engage in the practice of medicine and surgery,
13 osteopathy, chiropractic, dentistry, optometry, podiatry or psychology;

14 (2) the individual left temporary work to return to the regular
15 employer;

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

18 (4) the spouse of an individual who is a member of the armed forces
19 of the United States who left work because of the voluntary or involuntary
20 transfer of the individual's spouse from one job to another job, which is for
21 the same employer or for a different employer, at a geographic location
22 which makes it unreasonable for the individual to continue work at the
23 individual's job. For the purposes of this provision the term "armed forces"
24 means active duty in the army, navy, marine corps, air force, coast guard or
25 any branch of the military reserves of the United States;

26 (5) the individual left work because of hazardous working conditions;
27 in determining whether or not working conditions are hazardous for an
28 individual, the degree of risk involved to the individual's health, safety and
29 morals, the individual's physical fitness and prior training and the working
30 conditions of workers engaged in the same or similar work for the same
31 and other employers in the locality shall be considered; as used in this
32 paragraph, "hazardous working conditions" means working conditions that
33 could result in a danger to the physical or mental well-being of the
34 individual; each determination as to whether hazardous working
35 conditions exist shall include, but shall not be limited to, a consideration
36 of: (A) The safety measures used or the lack thereof; and (B) the condition
37 of equipment or lack of proper equipment; no work shall be considered
38 hazardous if the working conditions surrounding the individual's work are
39 the same or substantially the same as the working conditions generally
40 prevailing among individuals performing the same or similar work for
41 other employers engaged in the same or similar type of activity;

42 (6) the individual left work to enter training approved under section
43 236(a)(1) of the federal trade act of 1974, provided the work left is not of a

1 substantially equal or higher skill level than the individual's past adversely
2 affected employment, as defined for purposes of the federal trade act of
3 1974, and wages for such work are not less than 80% of the individual's
4 average weekly wage as determined for the purposes of the federal trade
5 act of 1974;

6 (7) the individual left work because of unwelcome harassment of the
7 individual by the employer or another employee of which the employing
8 unit had knowledge and that would impel the average worker to give up
9 such worker's employment;

10 (8) the individual left work to accept better work; each determination
11 as to whether or not the work accepted is better work shall include, but
12 shall not be limited to, consideration of: (A) The rate of pay, the hours of
13 work and the probable permanency of the work left as compared to the
14 work accepted; (B) the cost to the individual of getting to the work left in
15 comparison to the cost of getting to the work accepted; and (C) the
16 distance from the individual's place of residence to the work accepted in
17 comparison to the distance from the individual's residence to the work left;

18 (9) the individual left work as a result of being instructed or requested
19 by the employer, a supervisor or a fellow employee to perform a service or
20 commit an act in the scope of official job duties which is in violation of an
21 ordinance or statute;

22 (10) the individual left work because of a substantial violation of the
23 work agreement by the employing unit and, before the individual left, the
24 individual had exhausted all remedies provided in such agreement for the
25 settlement of disputes before terminating. For the purposes of this
26 paragraph, a demotion based on performance does not constitute a
27 violation of the work agreement;

28 (11) after making reasonable efforts to preserve the work, the
29 individual left work due to a personal emergency of such nature and
30 compelling urgency that it would be contrary to good conscience to
31 impose a disqualification; or

32 (12) (A) the individual left work due to circumstances resulting from
33 domestic violence, including:

34 (i) The individual's reasonable fear of future domestic violence at or
35 en route to or from the individual's place of employment;

36 (ii) the individual's need to relocate to another geographic area in
37 order to avoid future domestic violence;

38 (iii) the individual's need to address the physical, psychological and
39 legal impacts of domestic violence;

40 (iv) the individual's need to leave employment as a condition of
41 receiving services or shelter from an agency which provides support
42 services or shelter to victims of domestic violence; or

43 (v) the individual's reasonable belief that termination of employment

1 is necessary to avoid other situations which may cause domestic violence
2 and to provide for the future safety of the individual or the individual's
3 family.

4 (B) An individual may prove the existence of domestic violence by
5 providing one of the following:

6 (i) A restraining order or other documentation of equitable relief by a
7 court of competent jurisdiction;

8 (ii) a police record documenting the abuse;

9 (iii) documentation that the abuser has been convicted of one or more
10 of the offenses enumerated in articles 34 and 35 of chapter 21 of the
11 Kansas Statutes Annotated, prior to their repeal, or articles 54 or 55 of
12 chapter 21 of the Kansas Statutes Annotated, or K.S.A. 2019 Supp. 21-
13 6104, 21-6325, 21-6326 or 21-6418 through 21-6422, and amendments
14 thereto, where the victim was a family or household member;

15 (iv) medical documentation of the abuse;

16 (v) a statement provided by a counselor, social worker, health care
17 provider, clergy, shelter worker, legal advocate, domestic violence or
18 sexual assault advocate or other professional who has assisted the
19 individual in dealing with the effects of abuse on the individual or the
20 individual's family; or

21 (vi) a sworn statement from the individual attesting to the abuse.

22 (C) No evidence of domestic violence experienced by an individual,
23 including the individual's statement and corroborating evidence, shall be
24 disclosed by the department of labor unless consent for disclosure is given
25 by the individual.

26 (b) If the individual has been discharged or suspended for misconduct
27 connected with the individual's work. The disqualification shall begin the
28 day following the separation and shall continue until after the individual
29 becomes reemployed and in cases where the disqualification is due to
30 discharge for misconduct has had earnings from insured work of at least
31 three times the individual's determined weekly benefit amount, except that
32 if an individual is discharged for gross misconduct connected with the
33 individual's work, such individual shall be disqualified for benefits until
34 such individual again becomes employed and has had earnings from
35 insured work of at least eight times such individual's determined weekly
36 benefit amount. In addition, all wage credits attributable to the
37 employment from which the individual was discharged for gross
38 misconduct connected with the individual's work shall be canceled. No
39 such cancellation of wage credits shall affect prior payments made as a
40 result of a prior separation.

41 (1) (A) For the purposes of this subsection, "misconduct" is defined as
42 a violation of a duty or obligation reasonably owed the employer as a
43 condition of employment including, but not limited to, a violation of a

1 company rule, including a safety rule, if: ~~(A)~~(i) The individual knew or
 2 should have known about the rule; ~~(B)~~(ii) the rule was lawful and
 3 reasonably related to the job; and ~~(C)~~(iii) the rule was fairly and
 4 consistently enforced.

5 (B) *The term "misconduct" does not include any violation of a duty,*
 6 *obligation or company rule, if:*

7 (i) *The individual is a patient holding an identification card issued*
 8 *pursuant to section 10, and amendments thereto; and*

9 (ii) *the basis for the violation is the possession of such identification*
 10 *card or the possession or use of medical cannabis in accordance with the*
 11 *Kansas equal access act, section 1 et seq., and amendments thereto.*

12 (2) (A) Failure of the employee to notify the employer of an absence
 13 and an individual's leaving work prior to the end of such individual's
 14 assigned work period without permission shall be considered prima facie
 15 evidence of a violation of a duty or obligation reasonably owed the
 16 employer as a condition of employment.

17 (B) For the purposes of this subsection, misconduct shall include, but
 18 not be limited to, violation of the employer's reasonable attendance
 19 expectations if the facts show:

20 (i) The individual was absent or tardy without good cause;

21 (ii) the individual had knowledge of the employer's attendance
 22 expectation; and

23 (iii) the employer gave notice to the individual that future absence or
 24 tardiness may or will result in discharge.

25 (C) For the purposes of this subsection, if an employee disputes being
 26 absent or tardy without good cause, the employee shall present evidence
 27 that a majority of the employee's absences or tardiness were for good
 28 cause. If the employee alleges that the employee's repeated absences or
 29 tardiness were the result of health related issues, such evidence shall
 30 include documentation from a licensed and practicing health care provider
 31 as defined in subsection (a)(1).

32 (3) (A) (i) The term "gross misconduct" as used in this subsection
 33 shall be construed to mean conduct evincing extreme, willful or wanton
 34 misconduct as defined by this subsection. Gross misconduct shall include,
 35 but not be limited to: ~~(i)~~(a) Theft; ~~(ii)~~(b) fraud; ~~(iii)~~(c) intentional damage
 36 to property; ~~(iv)~~(d) intentional infliction of personal injury; or ~~(v)~~(e) any
 37 conduct that constitutes a felony.

38 (ii) *The term "gross misconduct" does not include any conduct of an*
 39 *individual, if:*

40 (a) *The individual is a patient holding an identification card issued*
 41 *pursuant to section 10, and amendments thereto; and*

42 (b) *the basis for such conduct is the possession of such identification*
 43 *card or the possession or use of medical cannabis in accordance with the*

1 *Kansas equal access act, section 1 et seq., and amendments thereto.*

2 (B) For the purposes of this subsection, the following shall be
3 conclusive evidence of gross misconduct:

4 (i) The use of alcoholic liquor, cereal malt beverage or a
5 nonprescribed controlled substance by an individual while working;

6 (ii) the impairment caused by alcoholic liquor, cereal malt beverage
7 or a nonprescribed controlled substance by an individual while working;

8 (iii) a positive breath alcohol test or a positive chemical test,
9 provided:

10 (a) The test was either:

11 (1) Required by law and was administered pursuant to the drug free
12 workplace act, 41 U.S.C. § 701 et seq.;

13 (2) administered as part of an employee assistance program or other
14 drug or alcohol treatment program in which the employee was
15 participating voluntarily or as a condition of further employment;

16 (3) requested pursuant to a written policy of the employer of which
17 the employee had knowledge and was a required condition of
18 employment;

19 (4) required by law and the test constituted a required condition of
20 employment for the individual's job; or

21 (5) there was reasonable suspicion to believe that the individual used,
22 had possession of, or was impaired by alcoholic liquor, cereal malt
23 beverage or a nonprescribed controlled substance while working;

24 (b) the test sample was collected either:

25 (1) As prescribed by the drug free workplace act, 41 U.S.C. § 701 et
26 seq.;

27 (2) as prescribed by an employee assistance program or other drug or
28 alcohol treatment program in which the employee was participating
29 voluntarily or as a condition of further employment;

30 (3) as prescribed by the written policy of the employer of which the
31 employee had knowledge and which constituted a required condition of
32 employment;

33 (4) as prescribed by a test which was required by law and which
34 constituted a required condition of employment for the individual's job; or

35 (5) at a time contemporaneous with the events establishing probable
36 cause;

37 (c) the collecting and labeling of a chemical test sample was
38 performed by a licensed health care professional or any other individual
39 certified pursuant to paragraph ~~(b)(3)(A)(iii)(f)~~ (b)(3)(B)(iii)(f) or
40 authorized to collect or label test samples by federal or state law, or a
41 federal or state rule or regulation having the force or effect of law,
42 including law enforcement personnel;

43 (d) the chemical test was performed by a laboratory approved by the

1 United States department of health and human services or licensed by the
2 department of health and environment, except that a blood sample may be
3 tested for alcohol content by a laboratory commonly used for that purpose
4 by state law enforcement agencies;

5 (e) the chemical test was confirmed by gas chromatography, gas
6 chromatography-mass spectroscopy or other comparably reliable
7 analytical method, except that no such confirmation is required for a blood
8 alcohol sample or a breath alcohol test;

9 (f) the breath alcohol test was administered by an individual trained
10 to perform breath tests, the breath testing instrument used was certified
11 and operated strictly according to a description provided by the
12 manufacturers and the reliability of the instrument performance was
13 assured by testing with alcohol standards; and

14 (g) the foundation evidence establishes, beyond a reasonable doubt,
15 that the test results were from the sample taken from the individual;

16 (iv) an individual's refusal to submit to a chemical test or breath
17 alcohol test, provided:

18 (a) The test meets the standards of the drug free workplace act, 41
19 U.S.C. § 701 et seq.;

20 (b) the test was administered as part of an employee assistance
21 program or other drug or alcohol treatment program in which the
22 employee was participating voluntarily or as a condition of further
23 employment;

24 (c) the test was otherwise required by law and the test constituted a
25 required condition of employment for the individual's job;

26 (d) the test was requested pursuant to a written policy of the employer
27 of which the employee had knowledge and was a required condition of
28 employment; or

29 (e) there was reasonable suspicion to believe that the individual used,
30 possessed or was impaired by alcoholic liquor, cereal malt beverage or a
31 nonprescribed controlled substance while working;

32 (v) an individual's dilution or other tampering of a chemical test.

33 (C) For purposes of this subsection:

34 (i) "Alcohol concentration" means the number of grams of alcohol
35 per 210 liters of breath;

36 (ii) "alcoholic liquor"~~shall be defined~~ *means the same* as provided in
37 K.S.A. 41-102, and amendments thereto;

38 (iii) "cereal malt beverage"~~shall be defined~~ *means the same* as
39 provided in K.S.A. 41-2701, and amendments thereto;

40 (iv) "chemical test"~~shall include~~ *includes*, but is not limited to, tests
41 of urine, blood or saliva;

42 (v) "controlled substance"~~shall be defined~~ *means the same* as
43 provided in K.S.A. 2019 Supp. 21-5701, and amendments thereto;

1 (vi) "required by law" means required by a federal or state law, a
2 federal or state rule or regulation having the force and effect of law, a
3 county resolution or municipal ordinance, or a policy relating to public
4 safety adopted in an open meeting by the governing body of any special
5 district or other local governmental entity;

6 (vii) "positive breath test"~~shall mean~~ means a test result showing an
7 alcohol concentration of 0.04 or greater, or the levels listed in 49 C.F.R.
8 part 40, if applicable, unless the test was administered as part of an
9 employee assistance program or other drug or alcohol treatment program
10 in which the employee was participating voluntarily or as a condition of
11 further employment, in which case "positive chemical test"~~shall mean~~
12 means a test result showing an alcohol concentration at or above the levels
13 provided for in the assistance or treatment program;

14 (viii) "positive chemical test"~~shall mean~~ means a chemical result
15 showing a concentration at or above the levels listed in K.S.A. 44-501, and
16 amendments thereto, or 49 C.F.R. part 40, as applicable, for the drugs or
17 abuse listed therein, unless the test was administered as part of an
18 employee assistance program or other drug or alcohol treatment program
19 in which the employee was participating voluntarily or as a condition of
20 further employment, in which case "positive chemical test" shall mean a
21 chemical result showing a concentration at or above the levels provided for
22 in the assistance or treatment program.

23 (4) An individual shall not be disqualified under this subsection if the
24 individual is discharged under the following circumstances:

25 (A) The employer discharged the individual after learning the
26 individual was seeking other work or when the individual gave notice of
27 future intent to quit, except that the individual shall be disqualified after
28 the time at which such individual intended to quit and any individual who
29 commits misconduct after such individual gives notice to such individual's
30 intent to quit shall be disqualified;

31 (B) the individual was making a good-faith effort to do the assigned
32 work but was discharged due to:

33 (i) Inefficiency;

34 (ii) unsatisfactory performance due to inability, incapacity or lack of
35 training or experience;

36 (iii) isolated instances of ordinary negligence or inadvertence;

37 (iv) good-faith errors in judgment or discretion; or

38 (v) unsatisfactory work or conduct due to circumstances beyond the
39 individual's control; or

40 (C) the individual's refusal to perform work in excess of the contract
41 of hire.

42 (c) If the individual has failed, without good cause, to either apply for
43 suitable work when so directed by the employment office of the secretary

1 of labor, or to accept suitable work when offered to the individual by the
2 employment office, the secretary of labor, or an employer, such
3 disqualification shall begin with the week in which such failure occurred
4 and shall continue until the individual becomes reemployed and has had
5 earnings from insured work of at least three times such individual's
6 determined weekly benefit amount. In determining whether or not any
7 work is suitable for an individual, the secretary of labor, or a person or
8 persons designated by the secretary, shall consider the degree of risk
9 involved to health, safety and morals, physical fitness and prior training,
10 experience and prior earnings, length of unemployment and prospects for
11 securing local work in the individual's customary occupation or work for
12 which the individual is reasonably fitted by training or experience, and the
13 distance of the available work from the individual's residence.
14 Notwithstanding any other provisions of this act, an otherwise eligible
15 individual shall not be disqualified for refusing an offer of suitable
16 employment, or failing to apply for suitable employment when notified by
17 an employment office, or for leaving the individual's most recent work
18 accepted during approved training, including training approved under
19 section 236(a)(1) of the trade act of 1974, if the acceptance of or applying
20 for suitable employment or continuing such work would require the
21 individual to terminate approved training and no work shall be deemed
22 suitable and benefits shall not be denied under this act to any otherwise
23 eligible individual for refusing to accept new work under any of the
24 following conditions: (1) If the position offered is vacant due directly to a
25 strike, lockout or other labor dispute; (2) if the remuneration, hours or
26 other conditions of the work offered are substantially less favorable to the
27 individual than those prevailing for similar work in the locality; (3) if as a
28 condition of being employed, the individual would be required to join or
29 resign from or refrain from joining any labor organization; and (4) if the
30 individual left employment as a result of domestic violence, and the
31 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 interested

1 in the labor dispute which caused the stoppage of work; and (2) the
2 individual does not belong to a grade or class of workers of which,
3 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 patient holding an identification card issued pursuant to section*
13 *10, and amendments thereto.*

14 (u) If the individual was found not to have a disqualifying
15 adjudication or conviction under K.S.A. 39-970 or 65-5117, and
16 amendments thereto, was hired and then was subsequently convicted of a
17 disqualifying felony under K.S.A. 39-970 or 65-5117, and amendments
18 thereto, and discharged pursuant to K.S.A. 39-970 or 65-5117, and
19 amendments thereto. The disqualification shall begin the day following the
20 separation and shall continue until after the individual becomes
21 reemployed and has had earnings from insured work of at least three times
22 the individual's determined weekly benefit amount.

23 (v) Notwithstanding the provisions of any subsection, an individual
24 shall not be disqualified for such week of part-time employment in a
25 substitute capacity for an educational institution if such individual's most
26 recent employment prior to the individual's benefit year begin date was for
27 a non-educational institution and such individual demonstrates application
28 for work in such individual's customary occupation or for work for which
29 the individual is reasonably fitted by training or experience.

30 Sec. 46. K.S.A. 44-1009 is hereby amended to read as follows: 44-
31 1009. (a) It shall be an unlawful employment practice:

32 (1) For an employer, because of the race, religion, color, sex,
33 disability, national origin or ancestry of any person to refuse to hire or
34 employ such person to bar or discharge such person from employment or
35 to otherwise discriminate against such person in compensation or in terms,
36 conditions or privileges of employment; to limit, segregate, separate,
37 classify or make any distinction in regards to employees; or to follow any
38 employment procedure or practice which, in fact, results in discrimination,
39 segregation or separation without a valid business necessity.

40 (2) For a labor organization, because of the race, religion, color, sex,
41 disability, national origin or ancestry of any person, to exclude or to expel
42 from its membership such person or to discriminate in any way against any
43 of its members or against any employer or any person employed by an

1 employer.

2 (3) For any employer, employment agency or labor organization to
3 print or circulate or cause to be printed or circulated any statement,
4 advertisement or publication, or to use any form of application for
5 employment or membership or to make any inquiry in connection with
6 prospective employment or membership, which expresses, directly or
7 indirectly, any limitation, specification or discrimination as to race,
8 religion, color, sex, disability, national origin or ancestry, or any intent to
9 make any such limitation, specification or discrimination, unless based on
10 a bona fide occupational qualification.

11 (4) For any employer, employment agency or labor organization to
12 discharge, expel or otherwise discriminate against any person because such
13 person has opposed any practices or acts forbidden under this act or
14 because such person has filed a complaint, testified or assisted in any
15 proceeding under this act.

16 (5) For an employment agency to refuse to list and properly classify
17 for employment or to refuse to refer any person for employment or
18 otherwise discriminate against any person because of such person's race,
19 religion, color, sex, disability, national origin or ancestry; or to comply
20 with a request from an employer for a referral of applicants for
21 employment if the request expresses, either directly or indirectly, any
22 limitation, specification or discrimination as to race, religion, color, sex,
23 disability, national origin or ancestry.

24 (6) For an employer, labor organization, employment agency, or
25 school which provides, coordinates or controls apprenticeship, on-the-job,
26 or other training or retraining program, to maintain a practice of
27 discrimination, segregation or separation because of race, religion, color,
28 sex, disability, national origin or ancestry, in admission, hiring,
29 assignments, upgrading, transfers, promotion, layoff, dismissal,
30 apprenticeship or other training or retraining program, or in any other
31 terms, conditions or privileges of employment, membership,
32 apprenticeship or training; or to follow any policy or procedure which, in
33 fact, results in such practices without a valid business motive.

34 (7) For any person, whether an employer or an employee or not, to
35 aid, abet, incite, compel or coerce the doing of any of the acts forbidden
36 under this act, or attempt to do so.

37 (8) For an employer, labor organization, employment agency or joint
38 labor-management committee to: (A) Limit, segregate or classify a job
39 applicant or employee in a way that adversely affects the opportunities or
40 status of such applicant or employee because of the disability of such
41 applicant or employee; (B) participate in a contractual or other
42 arrangement or relationship, including a relationship with an employment
43 or referral agency, labor union, an organization providing fringe benefits to

1 an employee or an organization providing training and apprenticeship
2 programs that has the effect of subjecting a qualified applicant or
3 employee with a disability to the discrimination prohibited by this act; (C)
4 utilize standards criteria, or methods of administration that have the effect
5 of discrimination on the basis of disability or that perpetuate the
6 discrimination of others who are subject to common administrative
7 control; (D) exclude or otherwise deny equal jobs or benefits to a qualified
8 individual because of the known disability of an individual with whom the
9 qualified individual is known to have a relationship or association; (E) not
10 make reasonable accommodations to the known physical or mental
11 limitations of an otherwise qualified individual with a disability who is an
12 applicant or employee, unless such employer, labor organization,
13 employment agency or joint labor-management committee can
14 demonstrate that the accommodation would impose an undue hardship on
15 the operation of the business thereof; (F) deny employment opportunities
16 to a job applicant or employee who is an otherwise qualified individual
17 with a disability, if such denial is based on the need to make reasonable
18 accommodation to the physical or mental impairments of the employee or
19 applicant; (G) use qualification standards, employment tests or other
20 selection criteria that screen out or tend to screen out an individual with a
21 disability or a class of individuals with disabilities unless the standard, test
22 or other selection criteria, as used, is shown to be job-related for the
23 position in question and is consistent with business necessity; or (H) fail to
24 select and administer tests concerning employment in the most effective
25 manner to ensure that, when such test is administered to a job applicant or
26 employee who has a disability that impairs sensory, manual or speaking
27 skills, the test results accurately reflect the skills, aptitude or whatever
28 other factor of such applicant or employee that such test purports to
29 measure, rather than reflecting the impaired sensory, manual or speaking
30 skills of such employee or applicant—(, except where such skills are the
31 factors that the test purports to measure).

32 (9) For any employer to:

33 (A) Seek to obtain, to obtain or to use genetic screening or testing
34 information of an employee or a prospective employee to distinguish
35 between or discriminate against or restrict any right or benefit otherwise
36 due or available to an employee or a prospective employee; or

37 (B) subject, directly or indirectly, any employee or prospective
38 employee to any genetic screening or test.

39 (10) (A) *For an employer, because a person is a patient or caregiver*
40 *holding an identification card issued pursuant to section 10, and*
41 *amendments thereto, or possesses or uses medical cannabis in accordance*
42 *with the Kansas equal access act, section 1 et seq., and amendments*
43 *thereto, to:*

1 (i) Refuse to hire or employ a person;
2 (ii) bar or discharge such person from employment; or
3 (iii) otherwise discriminate against such person in compensation or
4 in terms, conditions or privileges of employment without a valid business
5 necessity.

6 (B) For a labor organization, because a person is a patient or
7 caregiver holding an identification card issued pursuant to section 10, and
8 amendments thereto, or possesses or uses medical cannabis in accordance
9 with the Kansas equal access act, section 1 et seq., and amendments
10 thereto, to exclude or expel such person from its membership.

11 (C) Nothing in this paragraph shall be construed to prohibit a person
12 from taking any action necessary to procure or retain any monetary
13 benefit provided under federal law, or any rules and regulations adopted
14 thereunder; or to obtain or maintain any license, certificate, registration
15 or other legal status issued or bestowed under federal law, or any rules
16 and regulations adopted thereunder.

17 (b) It shall not be an unlawful employment practice to fill vacancies
18 in such way as to eliminate or reduce imbalance with respect to race,
19 religion, color, sex, disability, national origin or ancestry.

20 (c) It shall be an unlawful discriminatory practice:

21 (1) For any person, as defined herein being the owner, operator,
22 lessee, manager, agent or employee of any place of public accommodation
23 to refuse, deny or make a distinction, directly or indirectly, in offering its
24 goods, services, facilities, and accommodations to any person as covered
25 by this act because of race, religion, color, sex, disability, national origin or
26 ancestry, except where a distinction because of sex is necessary because of
27 the intrinsic nature of such accommodation.

28 (2) For any person, whether or not specifically enjoined from
29 discriminating under any provisions of this act, to aid, abet, incite, compel
30 or coerce the doing of any of the acts forbidden under this act, or to
31 attempt to do so.

32 (3) For any person, to refuse, deny, make a distinction, directly or
33 indirectly, or discriminate in any way against persons because of the race,
34 religion, color, sex, disability, national origin or ancestry of such persons
35 in the full and equal use and enjoyment of the services, facilities,
36 privileges and advantages of any institution, department or agency of the
37 state of Kansas or any political subdivision or municipality thereof.

38 Sec. 47. K.S.A. 44-1015 is hereby amended to read as follows: 44-
39 1015. As used in this act, unless the context otherwise requires:

40 (a) "Commission" means the Kansas human rights commission.

41 (b) "Real property" means and includes:

42 (1) All vacant or unimproved land; and

43 (2) any building or structure ~~which~~ that is occupied or designed or

1 intended for occupancy, or any building or structure having a portion
2 thereof ~~which~~ *that* is occupied or designed or intended for occupancy.

3 (c) "Family" includes a single individual.

4 (d) "Person" means an individual, corporation, partnership,
5 association, labor organization, legal representative, mutual company,
6 joint-stock company, trust, unincorporated organization, trustee, trustee in
7 bankruptcy, receiver and fiduciary.

8 (e) "To rent" means to lease, to sublease, to let and otherwise to grant
9 for a consideration the right to occupy premises not owned by the
10 occupant.

11 (f) "Discriminatory housing practice" means any act that is unlawful
12 under K.S.A. 44-1016, 44-1017 or 44-1026, and amendments thereto, *or*
13 *section 28, and amendments thereto.*

14 (g) "Person aggrieved" means any person who claims to have been
15 injured by a discriminatory housing practice or believes that such person
16 will be injured by a discriminatory housing practice that is about to occur.

17 (h) "Disability" ~~has the meaning provided by~~ *means the same as*
18 *defined in* K.S.A. 44-1002, and amendments thereto.

19 (i) "Familial status" means having one or more individuals less than
20 18 years of age domiciled with:

21 (1) A parent or another person having legal custody of such
22 individual or individuals; or

23 (2) the designee of such parent or other person having such custody,
24 with the written permission of such parent or other person.

25 Sec. 48. K.S.A. 2019 Supp. 65-1120 is hereby amended to read as
26 follows: 65-1120. (a) *Grounds for disciplinary actions.* The board may
27 deny, revoke, limit or suspend any license or authorization to practice
28 nursing as a registered professional nurse, as a licensed practical nurse, as
29 an advanced practice registered nurse or as a registered nurse anesthetist
30 that is issued by the board or applied for under this act, or may require the
31 licensee to attend a specific number of hours of continuing education in
32 addition to any hours the licensee may already be required to attend or
33 may publicly or privately censure a licensee or holder of a temporary
34 permit or authorization, if the applicant, licensee or holder of a temporary
35 permit or authorization is found after hearing:

36 (1) To be guilty of fraud or deceit in practicing nursing or in
37 procuring or attempting to procure a license to practice nursing;

38 (2) to have been guilty of a felony or to have been guilty of a
39 misdemeanor involving an illegal drug offense unless the applicant or
40 licensee establishes sufficient rehabilitation to warrant the public trust,
41 except that notwithstanding K.S.A. 74-120, and amendments thereto, no
42 license or authorization to practice nursing as a licensed professional
43 nurse, as a licensed practical nurse, as an advanced practice registered

1 nurse or registered nurse anesthetist shall be granted to a person with a
2 felony conviction for a crime against persons as specified in article 34 of
3 chapter 21 of the Kansas Statutes Annotated, prior to their repeal, or article
4 54 of chapter 21 of the Kansas Statutes Annotated, or K.S.A. 2019 Supp.
5 21-6104, 21-6325, 21-6326 or 21-6418, and amendments thereto;

6 (3) has been convicted or found guilty or has entered into an agreed
7 disposition of a misdemeanor offense related to the practice of nursing as
8 determined on a case-by-case basis;

9 (4) to have committed an act of professional incompetency as defined
10 in subsection (e);

11 (5) to be unable to practice with skill and safety due to current abuse
12 of drugs or alcohol;

13 (6) to be a person who has been adjudged in need of a guardian or
14 conservator, or both, under the act for obtaining a guardian or conservator,
15 or both, and who has not been restored to capacity under that act;

16 (7) to be guilty of unprofessional conduct as defined by rules and
17 regulations of the board;

18 (8) to have willfully or repeatedly violated the provisions of the
19 Kansas nurse practice act or any rules and regulations adopted pursuant to
20 that act, including K.S.A. 65-1114 and 65-1122, and amendments thereto;

21 (9) to have a license to practice nursing as a registered nurse or as a
22 practical nurse denied, revoked, limited or suspended, or to be publicly or
23 privately censured, by a licensing authority of another state, agency of the
24 United States government, territory of the United States or country or to
25 have other disciplinary action taken against the applicant or licensee by a
26 licensing authority of another state, agency of the United States
27 government, territory of the United States or country. A certified copy of
28 the record or order of public or private censure, denial, suspension,
29 limitation, revocation or other disciplinary action of the licensing authority
30 of another state, agency of the United States government, territory of the
31 United States or country shall constitute prima facie evidence of such a
32 fact for purposes of this paragraph (9); or

33 (10) to have assisted suicide in violation of K.S.A. 21-3406, prior to
34 its repeal, or K.S.A. 2019 Supp. 21-5407, and amendments thereto, as
35 established by any of the following:

36 (A) A copy of the record of criminal conviction or plea of guilty for a
37 felony in violation of K.S.A. 21-3406, prior to its repeal, or K.S.A. 2019
38 Supp. 21-5407, and amendments thereto.

39 (B) A copy of the record of a judgment of contempt of court for
40 violating an injunction issued under K.S.A. 2019 Supp. 60-4404, and
41 amendments thereto.

42 (C) A copy of the record of a judgment assessing damages under
43 K.S.A. 2019 Supp. 60-4405, and amendments thereto.

1 (b) *Proceedings*. Upon filing of a sworn complaint with the board
2 charging a person with having been guilty of any of the unlawful practices
3 specified in subsection (a), two or more members of the board shall
4 investigate the charges, or the board may designate and authorize an
5 employee or employees of the board to conduct an investigation. After
6 investigation, the board may institute charges. If an investigation, in the
7 opinion of the board, reveals reasonable grounds for believing the
8 applicant or licensee is guilty of the charges, the board shall fix a time and
9 place for proceedings, which shall be conducted in accordance with the
10 provisions of the Kansas administrative procedure act.

11 (c) *Witnesses*. No person shall be excused from testifying in any
12 proceedings before the board under this act or in any civil proceedings
13 under this act before a court of competent jurisdiction on the ground that
14 such testimony may incriminate the person testifying, but such testimony
15 shall not be used against the person for the prosecution of any crime under
16 the laws of this state except the crime of perjury as defined in K.S.A. 2019
17 Supp. 21-5903, and amendments thereto.

18 (d) *Costs*. If final agency action of the board in a proceeding under
19 this section is adverse to the applicant or licensee, the costs of the board's
20 proceedings shall be charged to the applicant or licensee as in ordinary
21 civil actions in the district court, but if the board is the unsuccessful party,
22 the costs shall be paid by the board. Witness fees and costs may be taxed
23 by the board according to the statutes relating to procedure in the district
24 court. All costs accrued by the board, when it is the successful party, and
25 ~~which that~~ the attorney general certifies cannot be collected from the
26 applicant or licensee shall be paid from the board of nursing fee fund. All
27 moneys collected following board proceedings shall be credited in full to
28 the board of nursing fee fund.

29 (e) *Professional incompetency defined*. As used in this section,
30 "professional incompetency" means:

31 (1) One or more instances involving failure to adhere to the
32 applicable standard of care to a degree ~~which that~~ constitutes gross
33 negligence, as determined by the board;

34 (2) repeated instances involving failure to adhere to the applicable
35 standard of care to a degree ~~which that~~ constitutes ordinary negligence, as
36 determined by the board; or

37 (3) a pattern of practice or other behavior ~~which that~~ demonstrates a
38 manifest incapacity or incompetence to practice nursing.

39 (f) *Criminal justice information*. The board upon request shall receive
40 from the Kansas bureau of investigation such criminal history record
41 information relating to arrests and criminal convictions as necessary for
42 the purpose of determining initial and continuing qualifications of
43 licensees of and applicants for licensure by the board.

1 (g) *Medical cannabis exemption. The board shall not deny, revoke,*
 2 *limit or suspend an advanced practice registered nurse's license or*
 3 *publicly or privately censure an advanced practice registered nurse for*
 4 *any of the following:*

5 (1) *The advanced practice registered nurse has:*

6 (A) *Advised a patient about the possible benefits and risks of using*
 7 *medical cannabis; or*

8 (B) *advised a patient that using medical cannabis may mitigate the*
 9 *patient's symptoms; or*

10 (2) *the advanced practice registered nurse is a patient or caregiver*
 11 *holding an identification card issued pursuant to section 10, and*
 12 *amendments thereto, possesses or has possessed, or uses or has used*
 13 *medical cannabis in accordance with the Kansas equal access act, section*
 14 *1 et seq., and amendments thereto.*

15 Sec. 49. K.S.A. 79-5201 is hereby amended to read as follows: 79-
 16 5201. As used in ~~this act~~ *article 52 of chapter 79 of the Kansas Statutes*
 17 *Annotated, and amendments thereto:*

18 (a) ~~"Marijuana" means any marijuana, whether real or counterfeit, as~~
 19 ~~defined by K.S.A. 2019 Supp. 21-5701, and amendments thereto, which is~~
 20 ~~held, possessed, transported, transferred, sold or offered to be sold in~~
 21 ~~violation of the laws of Kansas;~~

22 (b) ~~"Controlled substance" means any drug or substance, whether real~~
 23 ~~or counterfeit, as defined by K.S.A. 2019 Supp. 21-5701, and amendments~~
 24 ~~thereto, which that is held, possessed, transported, transferred, sold or~~
 25 ~~offered to be sold in violation of the laws of Kansas. Such term shall not~~
 26 ~~include marijuana;~~

27 (c) ~~"dealer" means any person who, in violation of Kansas law,~~
 28 ~~manufactures, produces, ships, transports or imports into Kansas or in any~~
 29 ~~manner acquires or possesses more than 28 grams of marijuana, or more~~
 30 ~~than one gram of any controlled substance, or 10 or more dosage units of~~
 31 ~~any controlled substance which that is not sold by weight;~~

32 (d) ~~"domestic marijuana plant" means any cannabis plant at any~~
 33 ~~level of growth which that is harvested or tended, manicured, irrigated,~~
 34 ~~fertilized or where there is other evidence that it has been treated in any~~
 35 ~~other way in an effort to enhance growth;~~

36 (e) ~~"marijuana" means any marijuana, whether real or counterfeit,~~
 37 ~~as defined in K.S.A. 2019 Supp. 21-5701, and amendments thereto, that is~~
 38 ~~held, possessed, transported, transferred, sold or offered for sale in~~
 39 ~~violation of the laws of Kansas; and~~

40 (f) ~~"medical cannabis" means the same as defined in section 2, and~~
 41 ~~amendments thereto.~~

42 Sec. 50. K.S.A. 79-5210 is hereby amended to read as follows: 79-
 43 5210. Nothing in this act requires persons registered under article 16 of

1 chapter 65 of the Kansas Statutes Annotated, *and amendments thereto*, or
2 otherwise lawfully in possession of marijuana, *medical cannabis* or a
3 controlled substance to pay the tax required under this act.

4 Sec. 51. K.S.A. 44-1009, 44-1015, 79-5201 and 79-5210 and K.S.A.
5 2019 Supp. 8-1567, 21-5703, 21-5705, 21-5706, 21-5707, 21-5709, 21-
6 5710, 21-6109, 23-3201, 38-2269, 44-501, 44-706 and 65-1120 are hereby
7 repealed.

8 Sec. 52. This act shall take effect and be in force from and after its
9 publication in the statute book.