

HOUSE BILL No. 2017

By Representatives Holscher, Bishop, Curtis, Frownfelter, Pittman, S. Ruiz, Xu
and Yeager

6-3

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 27, 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

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

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

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

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

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

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

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

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

29 (k) "Licensee" means any person holding a license issued pursuant to
30 this act to operate a cultivation facility, manufacturer facility, testing
31 laboratory facility or dispensary facility or to transport medical cannabis
32 from one licensed facility to another licensed facility.

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

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

42 (n) "Material change" means any change that would require a
43 substantive revision to the standard operating procedures of a licensee in

1 the cultivation or manufacture of medical cannabis or medical cannabis
2 products.

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

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

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

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

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

23 (t) "Processor facility" means a person licensed pursuant to section
24 16, and amendments thereto, to produce, manufacture, package or create
25 medical cannabis concentrate or medical cannabis products.

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

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

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

33 (v) "Secretary" means the secretary of the department of health and
34 environment.

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

42 (x) "Testing laboratory facility" means a person licensed pursuant to
43 section 16, and amendments thereto, to conduct testing and research on

1 medical cannabis and medical cannabis products.

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

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

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

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

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

1 course or courses prescribed for law enforcement officers under K.S.A.
2 74-5604a(a), and amendments thereto. The secretary may adopt rules and
3 regulations prescribing other training required for such agents or
4 employees.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 (9) to coordinate with the state banking commissioner and the state
2 treasurer to develop banking and finance best practices and standards for
3 facilities licensed pursuant to this act; and

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

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

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

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

16 (3) establishing policies and procedures for the reporting and tracking
17 of:

18 (A) Adverse events;

19 (B) product recalls; and

20 (C) complaints.

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

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

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

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

37 (2) the secretary of the department of agriculture or the secretary's
38 designee;

39 (3) the secretary for aging and disability services or the secretary's
40 designee;

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

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

1 medical cannabis;

2 (B) one member designated by the Kansas association of addiction
3 professionals;

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

6 (D) one licensed nurse practitioner who has experience in hospice
7 care;

8 (E) one licensed pharmacist;

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

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

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

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

15 (J) two members who have experience in the medical cannabis
16 industry; and

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

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

21 (c) The governor shall designate the chair from the members
22 appointed by the governor.

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

26 (1) Applications for licensure;

27 (2) issuance and renewal of licenses;

28 (3) security issues;

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

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

31 (6) education and research of medical cannabis;

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

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

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

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

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

3 (1) The ability to search for any of the following:

4 (A) Certified medical providers;

5 (B) caregivers; and

6 (C) licensed dispensaries;

7 (2) contact information, including phone number and email, for the
8 agency;

9 (3) information regarding the process for appealing a decision of the
10 director;

11 (4) application forms for identification cards and facility licenses; and

12 (5) crop damage report forms, including a portal to upload documents
13 and pictures.

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

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

27 (A) Qualifies for services under the Kansas medical assistance
28 program; or

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

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

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

42 (d) (1) A patient may designate any individual who is 18 years of age
43 or older as such patient's caregiver, including the owner, operator or any

1 trained staff of a licensed clinic, healthcare facility, hospice or home health
2 agency, group home or halfway house, and any individual who has been
3 designated as a caregiver by another patient.

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

5 (A) The caregiver is the parent of the patient, and the patient is under
6 18 years of age;

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

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

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

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

24 (g) (1) Any information collected by the director pursuant to this
25 section is confidential and not a public record. The director may share
26 information identifying a specific patient or caregiver with a licensed retail
27 dispensary for the purpose of confirming that such patient or caregiver has
28 a valid identification card. The provisions of this subsection shall expire on
29 July 1, 2025, unless the legislature reviews and reenacts such provisions in
30 accordance with K.S.A. 45-229, and amendments thereto, prior to July 1,
31 2025.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 (e) A medical provider who holds a certificate to recommend
2 treatment with medical cannabis shall be immune from civil liability, shall
3 not be subject to professional disciplinary action by the state board of
4 healing arts or the board of nursing and shall not be subject to criminal
5 prosecution for any of the following actions:

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

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

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

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

18 (1) A research protocol;

19 (2) a clinical trial;

20 (3) an investigational new drug application; or

21 (4) an expanded access submission.

22 New Sec. 13. A medical cannabis registry identification card, or its
23 equivalent, that is issued under the laws of another state, district, territory,
24 commonwealth or insular possession of the United States that is verifiable
25 by the jurisdiction of issuance and allows a nonresident patient to possess
26 medical cannabis for medical purposes shall have the same force and
27 effect as an identification card issued by the director pursuant to section
28 10, and amendments thereto.

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

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

43 New Sec. 16. (a) A person seeking to operate a cultivation, testing

1 laboratory, processor or dispensary facility shall apply to the director for a
2 license for such facility. The application shall be submitted in such form
3 and manner as prescribed by the director, accompanied by the required fee.
4 The director shall issue a license for such facility if the following
5 conditions are satisfied:

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

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

10 (3) the premises described in the application is not located within
11 1,000 feet of any existing elementary or secondary school or any licensed
12 daycare facility.

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

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

20 (2) the applicant submits proof that such applicant has or will have an
21 employment policy that will not prohibit the employment of individuals
22 who have been convicted or pleaded guilty to any offense under article 36a
23 of chapter 21 of the Kansas Statutes Annotated, prior to its transfer, article
24 57 of chapter 21 of the Kansas Statutes Annotated, and amendments
25 thereto, or K.S.A. 65-4160 or 65-4162, prior to their repeal, but whose
26 conduct that resulted in such offense would have been lawful if such
27 individual had possessed a valid patient or caregiver identification card at
28 the time of such offense.

29 (c) A person seeking a license to transport medical cannabis shall
30 apply to the director for such license. The application shall be submitted in
31 such form and manner as prescribed by the director, accompanied by the
32 required fee. The director shall issue a transportation license if the
33 application is complete and meets the requirements established in rules
34 and regulations adopted hereunder.

35 (d) The fee for each type of license issued by the director and the
36 renewal thereof shall be established by rules and regulations adopted
37 hereunder.

38 (e) A license shall be valid for the period of time stated on such
39 license and may be renewed by submitting a renewal application in such
40 form and manner as prescribed by the director, accompanied by the
41 required fee. The secretary shall adopt rules and regulations establishing
42 the period of validity for licenses and the procedures for the renewal
43 thereof.

1 (f) An individual shall be a resident of this state for at least two years
2 immediately prior to submission of the license application to be considered
3 a resident for purposes of obtaining a license under this section.

4 (g) The secretary shall adopt rules and regulations for:

5 (1) Applications for licensure;

6 (2) issuance of licenses;

7 (3) security of facilities;

8 (4) testing protocols for laboratories;

9 (5) employee training requirements;

10 (6) transportation and handling of medical cannabis and medical
11 cannabis products; and

12 (7) the receipt, storage, packaging, labeling, handling, manufacturing,
13 waste disposal, tracking and dispensing of medical cannabis and medical
14 cannabis products.

15 New Sec. 17. All applicants for a license shall require any owner,
16 director, officer or agent of such applicant to be fingerprinted and to
17 submit to a state and national criminal history record check. The director is
18 authorized to submit the fingerprints to the Kansas bureau of investigation
19 and the federal bureau of investigation for a state and national criminal
20 history record check. The director shall use the information obtained from
21 fingerprinting and the state and national criminal history record check for
22 purposes of verifying the identification of the applicant and for making a
23 determination of the qualifications of the applicant for licensure. The
24 Kansas bureau of investigation may charge a reasonable fee to the
25 applicant for fingerprinting and conducting a criminal history record
26 check, except such fee shall not exceed the actual cost incurred for such
27 criminal history record check.

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

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

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

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

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

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

43 (2) The director may conduct additional inspections of a licensed

1 premises when necessary due to a prior violation of this act. Such
2 inspection may be conducted without prior notice to the licensee if the
3 director reasonably believes that such notice will result in the destruction
4 of evidence in further violation of this act.

5 (c) During any investigation by the director, the director may require
6 and conduct interviews with the licensee under investigation and any
7 owners, officers, employees and agents thereof. Prior to conducting any
8 such interviews upon the request of the licensee, the director shall provide
9 the licensee and any other individuals being interviewed sufficient time to
10 secure legal representation during such interviews.

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

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

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

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

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

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

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

41 New Sec. 21. (a) There is hereby established the medical cannabis
42 regulation fund in the state treasury. The director of the Kansas medical
43 cannabis agency shall administer the medical cannabis regulation fund and

1 shall remit all moneys collected from the payment of all fees and fines
2 imposed by the director pursuant to the Kansas equal access act and any
3 other moneys received by or on behalf of the director pursuant to such act
4 to the state treasurer in accordance with the provisions of K.S.A. 75-4215,
5 and amendments thereto. Upon receipt of each such remittance, the state
6 treasurer shall deposit the entire amount in the state treasury to the credit
7 of the medical cannabis regulation fund. Moneys credited to the medical
8 cannabis regulation fund shall only be expended or transferred as provided
9 in this section. Expenditures from such fund shall be made in accordance
10 with appropriation acts upon warrants of the director of accounts and
11 reports issued pursuant to vouchers approved by the director or the
12 director's designee.

13 (b) Moneys in the medical cannabis regulation fund shall be used for
14 costs related to the regulation and enforcement of the cultivation,
15 possession, processing and sale of medical cannabis by the Kansas medical
16 cannabis agency.

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

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

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

37 New Sec. 23. The director of taxation shall have the power to require
38 any licensed dispensary to furnish additional information deemed
39 necessary for the purpose of computing the amount of the taxes due
40 pursuant to the Kansas equal access act and, for such purpose, to examine
41 all books, records and files of such persons or entities, and, for such
42 purpose, the director shall have the power to issue subpoenas and examine
43 witnesses under oath, and if any witness shall fail or refuse to appear at the

1 request of the director, or refuse access to books, records and files, the
2 district court of the proper county, or the judge thereof, on application of
3 the director, shall compel obedience by proceedings for contempt, as in the
4 case of disobedience of the requirements of a subpoena issued from such
5 court or a refusal to testify therein.

6 New Sec. 24. The provisions of K.S.A. 75-5133, 79-3610, 79-3611,
7 79-3612, 79-3613, 79-3615 and 79-3617, and amendments thereto,
8 relating to the assessment, collection, appeal and administration of the
9 retailers' sales tax, insofar as practical, shall have full force and effect with
10 respect to taxes, penalties and fines imposed by section 22, and
11 amendments thereto.

12 New Sec. 25. (a) There is hereby established the medical cannabis
13 revenues fund in the state treasury. All expenditures and transfers from
14 such fund shall be made in accordance with appropriation acts. All moneys
15 credited to such fund shall be expended or transferred only for the
16 purposes specified herein.

17 (b) (1) On July 1, 2021, and each July 1 thereafter, or as soon
18 thereafter such date as moneys are available, $\frac{1}{3}$ of the total amount
19 credited to the medical cannabis revenues fund shall be transferred by the
20 director of accounts and reports from the medical cannabis revenues fund
21 to the operating grant (including official hospitality) account of the
22 department of commerce in the state general fund to be expended for the
23 expansion of broadband internet connectivity.

24 (2) On July 1, 2021, and each July 1 thereafter, or as soon thereafter
25 such date as moneys are available, $\frac{1}{3}$ of the total amount credited to the
26 medical cannabis revenues fund shall be transferred by the director of
27 accounts and reports from the medical cannabis revenues fund to the
28 community crisis stabilization centers fund of the Kansas department for
29 aging and disability services.

30 (3) On July 1, 2021, and each July 1 thereafter, or as soon thereafter
31 such date as moneys are available, $\frac{1}{6}$ of the total amount credited to the
32 medical cannabis revenues fund shall be transferred by the director of
33 accounts and reports from the medical cannabis revenues fund to the state
34 water plan fund established by K.S.A. 82a-951, and amendments thereto.

35 (4) On July 1, 2021, and each July 1 thereafter, or as soon thereafter
36 such date as moneys are available, $\frac{1}{6}$ of the total amount credited to the
37 medical cannabis revenues fund shall be transferred by the director of
38 account and reports from the medical cannabis revenues fund to the law
39 enforcement community-based policing programs fund established by
40 section 26, and amendments thereto.

41 New Sec. 26. There is hereby established the law enforcement
42 community-based policing programs fund in the state treasury, which shall
43 be administered by the attorney general. Moneys credited to the law

1 enforcement community-based policing programs fund shall only be
2 expended or transferred for the purpose of establishing and implementing
3 community-based policing programs. All expenditures from such fund
4 shall be made in accordance with appropriation acts upon warrants of the
5 director of accounts and reports issued pursuant to vouchers approved by
6 the attorney general, or the attorney general's designee.

7 New Sec. 27. The provisions of the Kansas equal access act are
8 hereby declared to be severable. If any part or provision of the Kansas
9 equal access act is held to be void, invalid or unconstitutional, such part or
10 provision shall not affect or impair any of the remaining parts or
11 provisions of the Kansas equal access act and any such remaining parts or
12 provisions shall continue in full force and effect.

13 New Sec. 28. (a) A covered entity, solely on the basis that an
14 individual consumes medical cannabis in accordance with the provisions
15 of the Kansas equal access act, section 1 et seq., and amendments thereto,
16 shall not:

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

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

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

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

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

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

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

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

42 New Sec. 29. (a) Subject to the provisions of K.S.A. 44-1018, and
43 amendments thereto, it shall be unlawful for any person:

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

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

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

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

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

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

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

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

43 (e) The provisions of this section shall be a part of and supplement to

1 the Kansas act against discrimination.

2 New Sec. 30. (a) Any individual or group health insurance policy,
3 medical service plan, contract, hospital service corporation contract,
4 hospital and medical service corporation contract, fraternal benefit society
5 or health maintenance organization, municipal group-funded pool and the
6 state employee health care benefits plan shall not exclude coverage for an
7 insured individual solely on the basis that such insured individual
8 purchases, possesses or consumes medical cannabis in accordance with the
9 provisions of the Kansas equal access act, section 1 et seq., and
10 amendments thereto.

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

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

23 New Sec. 31. No patient or caregiver issued an identification card
24 pursuant to section 10, and amendments thereto, shall be denied the ability
25 to purchase or possess a firearm, ammunition or firearm accessories solely
26 on the basis that such individual purchases, possesses or consumes medical
27 cannabis in accordance with the provisions of the Kansas equal access act,
28 section 1 et seq., and amendments thereto.

29 New Sec. 32. (a) A patient or caregiver holding an identification card
30 issued pursuant to section 10, and amendments thereto, shall not be denied
31 eligibility in any public assistance or social welfare programs including,
32 but not limited to, the state medical assistance program, the supplemental
33 nutrition assistance program, the women, infants and children nutrition
34 program and the temporary assistance for needy families program solely
35 on the basis that such individual purchases, possesses or consumes medical
36 cannabis in accordance with the provisions of the Kansas equal access act,
37 section 1 et seq., and amendments thereto.

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

43 (c) Nothing in this section shall be construed to prohibit a person

1 from taking any action necessary to procure or retain any monetary benefit
2 provided under federal law, or any rules and regulations adopted
3 thereunder, or to obtain or maintain any license, certificate, registration or
4 other legal status issued or bestowed under federal law, or any rules and
5 regulations adopted thereunder.

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

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

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

21 New Sec. 34. (a) The governing body, or the chief administrative
22 officer, if no governing body exists, of a postsecondary educational
23 institution, as defined in K.S.A. 74-3201b, and amendments thereto, shall
24 permit any student enrolled in such postsecondary educational institution
25 who is a patient holding an identification card issued pursuant to section
26 10, and amendments thereto, to possess and consume medical cannabis in
27 accordance with the provisions of the Kansas equal access act, section 1 et
28 seq., and amendments thereto.

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

33 Sec. 35. K.S.A. 2019 Supp. 8-1567 is hereby amended to read as
34 follows: 8-1567. (a) Driving under the influence is operating or attempting
35 to operate any vehicle within this state while:

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

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

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

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

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

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

7 (A) On a first conviction a class B, nonperson misdemeanor. The
8 person convicted shall be sentenced to not less than 48 consecutive hours
9 nor more than six months' imprisonment, or in the court's discretion 100
10 hours of public service, and fined not less than \$750 nor more than \$1,000.
11 The person convicted shall serve at least 48 consecutive hours'
12 imprisonment or 100 hours of public service either before or as a condition
13 of any grant of probation or suspension, reduction of sentence or parole.
14 The court may place the person convicted under a house arrest program
15 pursuant to K.S.A. 2019 Supp. 21-6609, and amendments thereto, to serve
16 the remainder of the sentence only after such person has served 48
17 consecutive hours' imprisonment;

18 (B) on a second conviction a class A, nonperson misdemeanor. The
19 person convicted shall be sentenced to not less than 90 days nor more than
20 one year's imprisonment and fined not less than \$1,250 nor more than
21 \$1,750. The person convicted shall serve at least five consecutive days'
22 imprisonment before the person is granted probation, suspension or
23 reduction of sentence or parole or is otherwise released. The five days'
24 imprisonment mandated by this subsection may be served in a work
25 release program only after such person has served 48 consecutive hours'
26 imprisonment, provided such work release program requires such person
27 to return to confinement at the end of each day in the work release
28 program. The person convicted, if placed into a work release program,
29 shall serve a minimum of 120 hours of confinement. Such 120 hours of
30 confinement shall be a period of at least 48 consecutive hours of
31 imprisonment followed by confinement hours at the end of and continuing
32 to the beginning of the offender's work day. The court may place the
33 person convicted under a house arrest program pursuant to K.S.A. 2019
34 Supp. 21-6609, and amendments thereto, to serve the five days'
35 imprisonment mandated by this subsection only after such person has
36 served 48 consecutive hours' imprisonment. The person convicted, if
37 placed under house arrest, shall be monitored by an electronic monitoring
38 device, which verifies the offender's location. The offender shall serve a
39 minimum of 120 hours of confinement within the boundaries of the
40 offender's residence. Any exceptions to remaining within the boundaries of
41 the offender's residence provided for in the house arrest agreement shall
42 not be counted as part of the 120 hours;

43 (C) on a third conviction a class A, nonperson misdemeanor, except

1 as provided in subsection (b)(1)(D). The person convicted shall be
2 sentenced to not less than 90 days nor more than one year's imprisonment
3 and fined not less than \$1,750 nor more than \$2,500. The person convicted
4 shall not be eligible for release on probation, suspension or reduction of
5 sentence or parole until the person has served at least 90 days'
6 imprisonment. The 90 days' imprisonment mandated by this subsection
7 may be served in a work release program only after such person has served
8 48 consecutive hours' imprisonment, provided such work release program
9 requires such person to return to confinement at the end of each day in the
10 work release program. The person convicted, if placed into a work release
11 program, shall serve a minimum of 2,160 hours of confinement. Such
12 2,160 hours of confinement shall be a period of at least 48 consecutive
13 hours of imprisonment followed by confinement hours at the end of and
14 continuing to the beginning of the offender's work day. The court may
15 place the person convicted under a house arrest program pursuant to
16 K.S.A. 2019 Supp. 21-6609, and amendments thereto, to serve the 90 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 2,160 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 2,160 hours;

25 (D) on a third conviction a nonperson felony if the person has a prior
26 conviction which occurred within the preceding 10 years, not including
27 any period of incarceration. The person convicted shall be sentenced to not
28 less than 90 days nor more than one year's imprisonment and fined not less
29 than \$1,750 nor more than \$2,500. The person convicted shall not be
30 eligible for release on probation, suspension or reduction of sentence or
31 parole until the person has served at least 90 days' imprisonment. The 90
32 days' imprisonment mandated by this subsection may be served in a work
33 release program only after such person has served 48 consecutive hours'
34 imprisonment, provided such work release program requires such person
35 to return to confinement at the end of each day in the work release
36 program. The person convicted, if placed into a work release program,
37 shall serve a minimum of 2,160 hours of confinement. Such 2,160 hours of
38 confinement shall be a period of at least 48 consecutive hours of
39 imprisonment followed by confinement hours at the end of and continuing
40 to the beginning of the offender's work day. The court may place the
41 person convicted under a house arrest program pursuant to K.S.A. 2019
42 Supp. 21-6609, and amendments thereto, to serve the 90 days'
43 imprisonment mandated by this subsection only after such person has

1 served 48 consecutive hours' imprisonment. The person convicted, if
2 placed under house arrest, shall be monitored by an electronic monitoring
3 device, which verifies the offender's location. The offender shall serve a
4 minimum of 2,160 hours of confinement within the boundaries of the
5 offender's residence. Any exceptions to remaining within the boundaries of
6 the offender's residence provided for in the house arrest agreement shall
7 not be counted as part of the 2,160 hours; and

8 (E) on a fourth or subsequent conviction a nonperson felony. The
9 person convicted shall be sentenced to not less than 90 days nor more than
10 one year's imprisonment and fined \$2,500. The person convicted shall not
11 be eligible for release on probation, suspension or reduction of sentence or
12 parole until the person has served at least 90 days' imprisonment. The 90
13 days' imprisonment mandated by this subsection may be served in a work
14 release program only after such person has served 72 consecutive hours'
15 imprisonment, provided such work release program requires such person
16 to return to confinement at the end of each day in the work release
17 program. The person convicted, if placed into a work release program,
18 shall serve a minimum of 2,160 hours of confinement. Such 2,160 hours of
19 confinement shall be a period of at least 72 consecutive hours of
20 imprisonment followed by confinement hours at the end of and continuing
21 to the beginning of the offender's work day. The court may place the
22 person convicted under a house arrest program pursuant to K.S.A. 2019
23 Supp. 21-6609, and amendments thereto, to serve the 90 days'
24 imprisonment mandated by this subsection only after such person has
25 served 72 consecutive hours' imprisonment. The person convicted, if
26 placed under house arrest, shall be monitored by an electronic monitoring
27 device, which verifies the offender's location. The offender shall serve a
28 minimum of 2,160 hours of confinement within the boundaries of the
29 offender's residence. Any exceptions to remaining within the boundaries of
30 the offender's residence provided for in the house arrest agreement shall
31 not be counted as part of the 2,160 hours.

32 (2) The court may order that the term of imprisonment imposed
33 pursuant to subsection (b)(1)(D) or (b)(1)(E) be served in a state facility in
34 the custody of the secretary of corrections in a facility designated by the
35 secretary for the provision of substance abuse treatment pursuant to the
36 provisions of K.S.A. 2019 Supp. 21-6804, and amendments thereto. The
37 person shall remain imprisoned at the state facility only while participating
38 in the substance abuse treatment program designated by the secretary and
39 shall be returned to the custody of the sheriff for execution of the balance
40 of the term of imprisonment upon completion of or the person's discharge
41 from the substance abuse treatment program. Custody of the person shall
42 be returned to the sheriff for execution of the sentence imposed in the
43 event the secretary of corrections determines: (A) That substance abuse

1 treatment resources or the capacity of the facility designated by the
2 secretary for the incarceration and treatment of the person is not available;
3 (B) the person fails to meaningfully participate in the treatment program of
4 the designated facility; (C) the person is disruptive to the security or
5 operation of the designated facility; or (D) the medical or mental health
6 condition of the person renders the person unsuitable for confinement at
7 the designated facility. The determination by the secretary that the person
8 either is not to be admitted into the designated facility or is to be
9 transferred from the designated facility is not subject to review. The sheriff
10 shall be responsible for all transportation expenses to and from the state
11 correctional facility.

12 (3) In addition, for any conviction pursuant to subsection (b)(1)(C),
13 (b)(1)(D) or (b)(1)(E), at the time of the filing of the judgment form or
14 journal entry as required by K.S.A. 22-3426 or K.S.A. 2019 Supp. 21-
15 6711, and amendments thereto, the court shall cause a certified copy to be
16 sent to the officer having the offender in charge. The court shall determine
17 whether the offender, upon release from imprisonment, shall be supervised
18 by community correctional services or court services based upon the risk
19 and needs of the offender. The risk and needs of the offender shall be
20 determined by use of a risk assessment tool specified by the Kansas
21 sentencing commission. The law enforcement agency maintaining custody
22 and control of a defendant for imprisonment shall cause a certified copy of
23 the judgment form or journal entry to be sent to the supervision office
24 designated by the court and upon expiration of the term of imprisonment
25 shall deliver the defendant to a location designated by the supervision
26 office designated by the court. After the term of imprisonment imposed by
27 the court, the person shall be placed on supervision to community
28 correctional services or court services, as determined by the court, for a
29 mandatory one-year period of supervision, which such period of
30 supervision shall not be reduced. During such supervision, the person shall
31 be required to participate in a multidisciplinary model of services for
32 substance use disorders facilitated by a Kansas department for aging and
33 disability services designated care coordination agency to include
34 assessment and, if appropriate, referral to a community based substance
35 use disorder treatment including recovery management and mental health
36 counseling as needed. The multidisciplinary team shall include the
37 designated care coordination agency, the supervision officer, the Kansas
38 department for aging and disability services designated treatment provider
39 and the offender. An offender for whom a warrant has been issued by the
40 court alleging a violation of this supervision shall be considered a fugitive
41 from justice if it is found that the warrant cannot be served. If it is found
42 the offender has violated the provisions of this supervision, the court shall
43 determine whether the time from the issuing of the warrant to the date of

1 the court's determination of an alleged violation, or any part of it, shall be
2 counted as time served on supervision. Any violation of the conditions of
3 such supervision may subject such person to revocation of supervision and
4 imprisonment in jail for the remainder of the period of imprisonment, the
5 remainder of the supervision period, or any combination or portion
6 thereof. The term of supervision may be extended at the court's discretion
7 beyond one year, and any violation of the conditions of such extended term
8 of supervision may subject such person to the revocation of supervision
9 and imprisonment in jail of up to the remainder of the original sentence,
10 not the term of the extended supervision.

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

17 (c) Any person 18 years of age or older convicted of violating this
18 section or an ordinance which prohibits the acts that this section prohibits
19 who had one or more children under the age of 18 years in the vehicle at
20 the time of the offense shall have such person's punishment enhanced by
21 one month of imprisonment. This imprisonment must be served
22 consecutively to any other minimum mandatory penalty imposed for a
23 violation of this section or an ordinance which prohibits the acts that this
24 section prohibits. Any enhanced penalty imposed shall not exceed the
25 maximum sentence allowable by law. During the service of the enhanced
26 penalty, the judge may order the person on house arrest, work release or
27 other conditional release.

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

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

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

38 (f) In lieu of payment of a fine imposed pursuant to this section, the
39 court may order that the person perform community service specified by
40 the court. The person shall receive a credit on the fine imposed in an
41 amount equal to \$5 for each full hour spent by the person in the specified
42 community service. The community service ordered by the court shall be
43 required to be performed not later than one year after the fine is imposed

1 or by an earlier date specified by the court. If by the required date the
2 person performs an insufficient amount of community service to reduce to
3 zero the portion of the fine required to be paid by the person, the
4 remaining balance of the fine shall become due on that date.

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

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

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

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

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

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

32 (2) any convictions for a violation of the following sections occurring
33 during a person's lifetime shall be taken into account: (A) Driving a
34 commercial motor vehicle under the influence, K.S.A. 8-2,144, and
35 amendments thereto; (B) operating a vessel under the influence of alcohol
36 or drugs, K.S.A. 32-1131, and amendments thereto; (C) involuntary
37 manslaughter while driving under the influence of alcohol or drugs, K.S.A.
38 21-3442, prior to its repeal, or K.S.A. 2019 Supp. 21-5405(a)(3) or (a)(5),
39 and amendments thereto; (D) aggravated battery as described in K.S.A.
40 2019 Supp. 21-5413(b)(3) or (b)(4), and amendments thereto; and (E)
41 aggravated vehicular homicide, K.S.A. 21-3405a, prior to its repeal, or
42 vehicular battery, K.S.A. 21-3405b, prior to its repeal, if the crime was
43 committed while committing a violation of K.S.A. 8-1567, and

1 amendments thereto;

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

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

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

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

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

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

19 (2) the elements of the out-of-jurisdiction offense; and

20 (3) whether the out-of-jurisdiction offense prohibits similar conduct
21 to the conduct prohibited by the closest approximate Kansas offense.

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

27 (l) (1) Nothing contained in this section shall be construed as
28 preventing any city from enacting ordinances, or any county from adopting
29 resolutions, declaring acts prohibited or made unlawful by this act as
30 unlawful or prohibited in such city or county and prescribing penalties for
31 violation thereof.

32 (2) The minimum penalty prescribed by any such ordinance or
33 resolution shall not be less than the minimum penalty prescribed by this
34 section for the same violation, and the maximum penalty in any such
35 ordinance or resolution shall not exceed the maximum penalty prescribed
36 for the same violation.

37 (3) On and after July 1, 2007, and retroactive for ordinance violations
38 committed on or after July 1, 2006, an ordinance may grant to a municipal
39 court jurisdiction over a violation of such ordinance which is concurrent
40 with the jurisdiction of the district court over a violation of this section,
41 notwithstanding that the elements of such ordinance violation are the same
42 as the elements of a violation of this section that would constitute, and be
43 punished as, a felony.

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

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

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

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

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

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

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

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

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

36 (3) "drug" includes toxic vapors as such term is defined in K.S.A.
37 2019 Supp. 21-5712, and amendments thereto.

38 (q) (1) The amount of the increase in fines as specified in this section
39 shall be remitted by the clerk of the district court to the state treasurer in
40 accordance with the provisions of K.S.A. 75-4215, and amendments
41 thereto. Upon receipt of remittance of the increase provided in this act, the
42 state treasurer shall deposit the entire amount in the state treasury and the
43 state treasurer shall credit 50% to the community alcoholism and

1 intoxication programs fund and 50% to the department of corrections
2 alcohol and drug abuse treatment fund, which is hereby created in the state
3 treasury.

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

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

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

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

17 (2) drug severity level 1 felony if:

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

21 (B) the offender has a prior conviction for unlawful manufacturing of
22 a controlled substance under this section, K.S.A. 65-4159, prior to its
23 repeal, K.S.A. 2010 Supp. 21-36a03, prior to its transfer, or a substantially
24 similar offense from another jurisdiction and the substance was not
25 methamphetamine, as defined by ~~subsection (d)(3) or (f)(1) of~~ K.S.A. 65-
26 4107(d)(3) or (f)(1), and amendments thereto, or an analog thereof, in any
27 such prior conviction; and

28 (3) drug severity level 1 felony if the controlled substance is
29 methamphetamine, as defined by ~~subsection (d)(3) or (f)(1) of~~ K.S.A. 65-
30 4107(d)(3) or (f)(1), and amendments thereto, or an analog thereof.

31 (c) The provisions of ~~subsection (d) of~~ K.S.A. 2019 Supp. 21-
32 5301(d), and amendments thereto, shall not apply to a violation of
33 attempting to unlawfully manufacture any controlled substance or
34 controlled substance analog pursuant to this section.

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

42 (e) The sentence of a person who violates this section shall not be
43 subject to statutory provisions for suspended sentence, community service

1 work or probation.

2 (f) The sentence of a person who violates this section, K.S.A. 65-
3 4159, prior to its repeal or K.S.A. 2010 Supp. 21-36a03, prior to its
4 transfer, shall not be reduced because these sections prohibit conduct
5 identical to that prohibited by K.S.A. 65-4161 or 65-4163, prior to their
6 repeal, K.S.A. 2010 Supp. 21-36a05, prior to its transfer, or K.S.A. 2019
7 Supp. 21-5705, and amendments thereto.

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

14 Sec. 37. K.S.A. 2019 Supp. 21-5705 is hereby amended to read as
15 follows: 21-5705. (a) It shall be unlawful for any person to distribute or
16 possess with the intent to distribute any of the following controlled
17 substances or controlled substance analogs thereof:

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

21 (2) any depressant designated in ~~subsection (e) of K.S.A. 65-4105(e),~~
22 ~~subsection (e) of K.S.A. 65-4107(e), subsection (b) or (c) of K.S.A. 65-~~
23 ~~4109(b) or (c) or subsection (b) of K.S.A. 65-4111(b),~~ and amendments
24 thereto;

25 (3) any stimulant designated in ~~subsection (f) of K.S.A. 65-4105(f),~~
26 ~~subsection (d)(2), (d)(4), (d)(5) or (f)(2) of K.S.A. 65-4107(d)(2), (d)(4),~~
27 ~~(d)(5) or (f)(2) or subsection (e) of K.S.A. 65-4109(e),~~ and amendments
28 thereto;

29 (4) any hallucinogenic drug designated in ~~subsection (d) of K.S.A.~~
30 ~~65-4105(d), subsection (g) of K.S.A. 65-4107(g) or subsection (g) of~~
31 ~~K.S.A. 65-4109(g),~~ and amendments thereto;

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

35 (6) any anabolic steroids as defined in ~~subsection (f) of K.S.A. 65-~~
36 ~~4109(f),~~ and amendments thereto; or

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

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

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

- 1 (d) (1) Except as provided further, violation of subsection (a) is a:
- 2 (A) Drug severity level 4 felony if the quantity of the material was
3 less than 3.5 grams;
- 4 (B) drug severity level 3 felony if the quantity of the material was at
5 least 3.5 grams but less than 100 grams;
- 6 (C) drug severity level 2 felony if the quantity of the material was at
7 least 100 grams but less than 1 kilogram; and
- 8 (D) drug severity level 1 felony if the quantity of the material was 1
9 kilogram or more.
- 10 (2) Violation of subsection (a) with respect to material containing any
11 quantity of marijuana, or an analog thereof, is a:
- 12 (A) Drug severity level 4 felony if the quantity of the material was
13 less than 25 grams;
- 14 (B) drug severity level 3 felony if the quantity of the material was at
15 least 25 grams but less than 450 grams;
- 16 (C) drug severity level 2 felony if the quantity of the material was at
17 least 450 grams but less than 30 kilograms; and
- 18 (D) drug severity level 1 felony if the quantity of the material was 30
19 kilograms or more.
- 20 (3) Violation of subsection (a) with respect to material containing any
21 quantity of heroin, as defined by ~~subsection (e)(1) of K.S.A. 65-4105(c)~~
22 *(1)*, and amendments thereto, or methamphetamine, as defined by
23 ~~subsection (d)(3) or (f)(1) of K.S.A. 65-4107(d)(3) or (f)(1)~~, and
24 amendments thereto, or an analog thereof, is a:
- 25 (A) Drug severity level 4 felony if the quantity of the material was
26 less than 1 gram;
- 27 (B) drug severity level 3 felony if the quantity of the material was at
28 least 1 gram but less than 3.5 grams;
- 29 (C) drug severity level 2 felony if the quantity of the material was at
30 least 3.5 grams but less than 100 grams; and
- 31 (D) drug severity level 1 felony if the quantity of the material was
32 100 grams or more.
- 33 (4) Violation of subsection (a) with respect to material containing any
34 quantity of a controlled substance designated in K.S.A. 65-4105, 65-4107,
35 65-4109 or 65-4111, and amendments thereto, or an analog thereof,
36 distributed by dosage unit, is a:
- 37 (A) Drug severity level 4 felony if the number of dosage units was
38 fewer than 10;
- 39 (B) drug severity level 3 felony if the number of dosage units was at
40 least 10 but less than 100;
- 41 (C) drug severity level 2 felony if the number of dosage units was at
42 least 100 but less than 1,000; and
- 43 (D) drug severity level 1 felony if the number of dosage units was

1 1,000 or more.

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

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

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

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

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

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

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

16 (C) drug severity level 1 felony if the number of plants cultivated was
 17 100 or more.

18 (e) In any prosecution under this section, there shall be a rebuttable
 19 presumption of an intent to distribute if any person possesses the following
 20 quantities of controlled substances or analogs thereof:

21 (1) 450 grams or more of marijuana;

22 (2) 3.5 grams or more of heroin or methamphetamine;

23 (3) 100 dosage units or more containing a controlled substance; or

24 (4) 100 grams or more of any other controlled substance.

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

27 (1) Was acting in an agency relationship on behalf of any other party
 28 in a transaction involving a controlled substance or controlled substance
 29 analog;

30 (2) did not know the quantity of the controlled substance or
 31 controlled substance analog; or

32 (3) did not know the specific controlled substance or controlled
 33 substance analog contained in the material that was distributed or
 34 possessed with the intent to distribute.

35 (g) *The provisions of subsections (a)(4) and (a)(5) shall not apply to*
 36 *any facility or person licensed by the director of the Kansas medical*
 37 *cannabis agency pursuant to section 16, and amendments thereto, or any*
 38 *employee or agent thereof, that is growing, testing, processing or*
 39 *engaging in the sale of medical cannabis or medical cannabis products in*
 40 *a manner authorized by the Kansas equal access act, section 1 et seq., and*
 41 *amendments thereto.*

42 (h) As used in this section:

43 (1) "Material" means the total amount of any substance, including a

1 compound or a mixture, ~~which~~ *that* contains any quantity of a controlled
2 substance or controlled substance analog.

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

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

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

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

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

22 Sec. 38. K.S.A. 2019 Supp. 21-5706 is hereby amended to read as
23 follows: 21-5706. (a) It shall be unlawful for any person to possess any
24 opiates, opium or narcotic drugs, or any stimulant designated in K.S.A. 65-
25 4107(d)(1), (d)(3) or (f)(1), and amendments thereto, or a controlled
26 substance analog thereof.

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

29 (1) Any depressant designated in K.S.A. 65-4105(e), 65-4107(e), 65-
30 4109(b) or (c) or 65-4111(b), and amendments thereto;

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

33 (3) any hallucinogenic drug designated in K.S.A. 65-4105(d), 65-
34 4107(g) or 65-4109(g), and amendments thereto;

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

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

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

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

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

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

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

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

13 (3) If the substance involved is marijuana, as designated in K.S.A.
14 65-4105(d), and amendments thereto, or tetrahydrocannabinols, as
15 designated in K.S.A. 65-4105(h), and amendments thereto, violation of
16 subsection (b) is a:

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

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

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

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

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

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

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

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

42 ~~(B) is dated within the preceding 15 months and signed by the~~
43 ~~physician licensed to practice medicine and surgery in Kansas who~~

1 ~~diagnosed the debilitating medical condition;~~

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

3 ~~(D) identifies the person or the person's minor child as such~~
 4 ~~physician's patient and identifies the patient's debilitating medical~~
 5 ~~condition~~

6 *If the substance involved is medical cannabis, as defined in*
 7 *section 2, and amendments thereto, the provisions of subsections (b) and*
 8 *(c) shall not apply to any person who is a patient or caregiver holding an*
 9 *identification card issued pursuant to section 10, and amendments thereto,*
 10 *or a facility or person licensed by the director of the Kansas medical*
 11 *cannabis agency pursuant to section 16, and amendments thereto, or any*
 12 *employee or agent thereof, and whose possession is authorized by the*
 13 *Kansas equal access act, section 1 et seq., and amendments thereto.*

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

18 Sec. 39. K.S.A. 2019 Supp. 21-5707 is hereby amended to read as
 19 follows: 21-5707. (a) It shall be unlawful for any person to knowingly or
 20 intentionally use any communication facility:

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

24 (2) in any attempt to commit, any conspiracy to commit, or any
 25 criminal solicitation of any felony under K.S.A. 2019 Supp. 21-5703, 21-
 26 5705 or 21-5706, and amendments thereto. Each separate use of a
 27 communication facility may be charged as a separate offense under this
 28 subsection.

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

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

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

39 Sec. 40. K.S.A. 2019 Supp. 21-5709 is hereby amended to read as
 40 follows: 21-5709. (a) It shall be unlawful for any person to possess
 41 ephedrine, pseudoephedrine, red phosphorus, lithium metal, sodium metal,
 42 iodine, anhydrous ammonia, pressurized ammonia or
 43 phenylpropanolamine, or their salts, isomers or salts of isomers with an
 intent to use the product to manufacture a controlled substance.

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

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

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

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

10 (d) It shall be unlawful for any person to purchase, receive or
11 otherwise acquire at retail any compound, mixture or preparation
12 containing more than 3.6 grams of pseudoephedrine base or ephedrine
13 base in any single transaction or any compound, mixture or preparation
14 containing more than nine grams of pseudoephedrine base or ephedrine
15 base within any 30-day period.

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

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

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

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

22 (3) violation of subsection (b)(2) is a class B nonperson
23 misdemeanor;

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

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

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

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

40 Sec. 41. K.S.A. 2019 Supp. 21-5710 is hereby amended to read as
41 follows: 21-5710. (a) It shall be unlawful for any person to advertise,
42 market, label, distribute or possess with the intent to distribute:

43 (1) Any product containing ephedrine, pseudoephedrine, red

1 phosphorus, lithium metal, sodium metal, iodine, anhydrous ammonia,
 2 pressurized ammonia or phenylpropanolamine or their salts, isomers or
 3 salts of isomers if the person knows or reasonably should know that the
 4 purchaser will use the product to manufacture a controlled substance or
 5 controlled substance analog; or

6 (2) any product containing ephedrine, pseudoephedrine or
 7 phenylpropanolamine, or their salts, isomers or salts of isomers for
 8 indication of stimulation, mental alertness, weight loss, appetite control,
 9 energy or other indications not approved pursuant to the pertinent federal
 10 over-the-counter drug final monograph or tentative final monograph or
 11 approved new drug application.

12 (b) It shall be unlawful for any person to distribute, possess with the
 13 intent to distribute or manufacture with intent to distribute any drug
 14 paraphernalia, knowing or under circumstances where one reasonably
 15 should know that it will be used to manufacture or distribute a controlled
 16 substance or controlled substance analog in violation of K.S.A. 2019 Supp.
 17 21-5701 through 21-5717, and amendments thereto.

18 (c) It shall be unlawful for any person to distribute, possess with
 19 intent to distribute or manufacture with intent to distribute any drug
 20 paraphernalia, knowing or under circumstances where one reasonably
 21 should know, that it will be used as such in violation of K.S.A. 2019 Supp.
 22 21-5701 through 21-5717, and amendments thereto, ~~except subsection (b)~~
 23 ~~of K.S.A. 2019 Supp. 21-5706(b), and amendments thereto.~~

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

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

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

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

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

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

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

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

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

43 (A) Class A nonperson misdemeanor, except as provided in

1 subsection (e)(4)(B); and

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

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

13 (g) *The provisions of subsection (c) shall not apply to any facility or*
14 *person licensed by the director of the Kansas medical cannabis agency*
15 *pursuant to section 16, and amendments thereto, or any employee or agent*
16 *thereof, and whose distribution or manufacture is authorized by the*
17 *Kansas equal access act, section 1 et seq., and amendments thereto.*

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

21 (1) Actual knowledge from prior experience or statements by
22 customers;

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

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

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

31 Sec. 42. K.S.A. 2019 Supp. 21-6109 is hereby amended to read as
32 follows: 21-6109. As used in K.S.A. 2019 Supp. 21-6109 through 21-6116,
33 and amendments thereto:

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

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

43 (c) "*Cannabis*" and "*medical cannabis product*" mean the same as

1 *such terms are defined in section 2, and amendments thereto.*

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

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

7 ~~(d)~~(f) *"Employer" means any person, partnership, corporation,*
8 *association or organization, including municipal or nonprofit entities, that*
9 *employs one or more individual persons.*

10 ~~(e)~~(g) *"Enclosed area" means all space between a floor and ceiling*
11 *that is enclosed on all sides by solid walls, windows or doorways that*
12 *extend from the floor to the ceiling, including all space therein screened by*
13 *partitions that do not extend to the ceiling or are not solid or similar*
14 *structures. For purposes of this section, the following shall not be*
15 *considered an "enclosed area": (1) Rooms or areas, enclosed by walls,*
16 *windows or doorways, having neither a ceiling nor a roof and that are*
17 *completely open to the elements and weather at all times; and (2) rooms or*
18 *areas, enclosed by walls, fences, windows or doorways and a roof or*
19 *ceiling, having openings that are permanently open to the elements and*
20 *weather and that comprise an area that is at least 30% of the total*
21 *perimeter wall area of such room or area.*

22 ~~(f)~~(h) *"Food service establishment" means any place in which food is*
23 *served or is prepared for sale or service on the premises. Such term shall*
24 *include, but not be limited to, fixed or mobile restaurants, coffee shops,*
25 *cafeterias, short-order cafes, luncheonettes, grills, tea rooms, sandwich*
26 *shops, soda fountains, taverns, private clubs, roadside kitchens,*
27 *commissaries and any other private, public or nonprofit organization or*
28 *institution routinely serving food and any other eating or drinking*
29 *establishment or operation where food is served or provided for the public*
30 *with or without charge.*

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

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

1 amendments thereto.

2 ~~(j)~~(k) "Outdoor recreational facility" means a hunting, fishing,
3 shooting or golf club, business or enterprise operated primarily for the
4 benefit of its owners, members and their guests and not normally open to
5 the general public.

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

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

20 ~~(l)~~(n) "Public building" means any building owned or operated by: (1)
21 The state, including any branch, department, agency, bureau, commission,
22 authority or other instrumentality thereof; (2) any county, city, township,
23 other political subdivision, including any commission, authority, agency or
24 instrumentality thereof; or (3) any other separate corporate instrumentality
25 or unit of the state or any municipality.

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

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

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

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

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

10 Sec. 43. K.S.A. 2019 Supp. 23-3201 is hereby amended to read as
11 follows: 23-3201. (a) The court shall determine legal custody, residency
12 and parenting time of a child in accordance with the best interests of the
13 child.

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

18 Sec. 44. K.S.A. 2019 Supp. 38-2269 is hereby amended to read as
19 follows: 38-2269. (a) When the child has been adjudicated to be a child in
20 need of care, the court may terminate parental rights or appoint a
21 permanent custodian when the court finds by clear and convincing
22 evidence that the parent is unfit by reason of conduct or condition which
23 renders the parent unable to care properly for a child and the conduct or
24 condition is unlikely to change in the foreseeable future.

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

27 (1) Emotional illness, mental illness, mental deficiency or physical
28 disability of the parent, of such duration or nature as to render the parent
29 unable to care for the ongoing physical, mental and emotional needs of the
30 child;

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

33 (3) the use of intoxicating liquors or narcotic or dangerous drugs of
34 such duration or nature as to render the parent unable to care for the
35 ongoing physical, mental or emotional needs of the child, *except the use of*
36 *medical cannabis in accordance with the provisions of the Kansas equal*
37 *access act, section 1 et seq., and amendments thereto, shall not be*
38 *considered to render the parent unable to care for the ongoing physical,*
39 *mental or emotional needs of the child;*

40 (4) physical, mental or emotional abuse or neglect or sexual abuse of
41 a child;

42 (5) conviction of a felony and imprisonment;

43 (6) unexplained injury or death of another child or stepchild of the

1 parent or any child in the care of the parent at the time of injury or death;

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

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

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

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

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

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

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

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

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

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

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

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

40 (g) (1) If the court makes a finding of unfitness, the court shall
41 consider whether termination of parental rights as requested in the petition
42 or motion is in the best interests of the child. In making the determination,
43 the court shall give primary consideration to the physical, mental and

1 emotional health of the child. If the physical, mental or emotional needs of
 2 the child would best be served by termination of parental rights, the court
 3 shall so order. A termination of parental rights under the code shall not
 4 terminate the right of a child to inherit from or through a parent. Upon
 5 such termination all rights of the parent to such child, including, such
 6 parent's right to inherit from or through such child, shall cease.

7 (2) If the court terminates parental rights, the court may authorize
 8 adoption pursuant to K.S.A. 2019 Supp. 38-2270, and amendments
 9 thereto, appointment of a permanent custodian pursuant to K.S.A. 2019
 10 Supp. 38-2272, and amendments thereto, or continued permanency
 11 planning.

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

16 (h) If a parent is convicted of an offense as provided in K.S.A. 2019
 17 Supp. 38-2271(a)(7), and amendments thereto, or is adjudicated a juvenile
 18 offender because of an act which if committed by an adult would be an
 19 offense as provided in K.S.A. 2019 Supp. 38-2271(a)(7), and amendments
 20 thereto, and if the victim was the other parent of a child, the court may
 21 disregard such convicted or adjudicated parent's opinions or wishes in
 22 regard to the placement of such child.

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

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

29 Sec. 45. K.S.A. 2019 Supp. 44-501 is hereby amended to read as
 30 follows: 44-501. (a) (1) Compensation for an injury shall be disallowed if
 31 such injury to the employee results from:

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

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

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

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

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

42 (2) ~~Subparagraphs (B) and (C) of paragraph (1) of subsection~~
 43 ~~(a) Subsections (a)(1)(B) and (a)(1)(C) shall not apply when it was~~

1 reasonable under the totality of the circumstances to not use such
2 equipment, or if the employer approved the work engaged in at the time of
3 an accident or injury to be performed without such equipment.

4 (b) (1) (A) The employer shall not be liable under the workers
5 compensation act where the injury, disability or death was contributed to
6 by the employee's use or consumption of alcohol or any drugs, chemicals
7 or any other compounds or substances, including, but not limited to, any
8 drugs or medications ~~which~~ that are available to the public without a
9 prescription from a health care provider, prescription drugs or medications,
10 any form or type of narcotic drugs, marijuana, stimulants, depressants or
11 hallucinogens.

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

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

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

	Confirmatory test cutoff levels (ng/ml)
32	
33	
34	
35 Marijuana metabolite ¹	15
36 Cocaine metabolite ²	150
37 Opiates:	
38 Morphine	2000
39 Codeine	2000
40 6-Acetylmorphine ⁴	10 ng/ml
41 Phencyclidine	25

1 Amphetamines:

2 Amphetamine 500

3 Methamphetamine³ 500

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

5 ²Benzoylecgonine.

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

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

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

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

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

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

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

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

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

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

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

42 (A) The test sample was collected within a reasonable time following

1 the accident or injury;

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

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

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

12 (E) the foundation evidence must establish, beyond a reasonable
13 doubt, that the test results were from the sample taken from the employee;
14 and

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

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

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

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

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

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

33 (d) Except as provided in the workers compensation act, no
34 construction design professional who is retained to perform professional
35 services on a construction project or any employee of a construction
36 design professional who is assisting or representing the construction
37 design professional in the performance of professional services on the site
38 of the construction project, shall be liable for any injury resulting from the
39 employer's failure to comply with safety standards on the construction
40 project for which compensation is recoverable under the workers
41 compensation act, unless responsibility for safety practices is specifically
42 assumed by contract. The immunity provided by this subsection to any
43 construction design professional shall not apply to the negligent

1 preparation of design plans or specifications.

2 (e) An award of compensation for permanent partial impairment,
3 work disability, or permanent total disability shall be reduced by the
4 amount of functional impairment determined to be preexisting. Any such
5 reduction shall not apply to temporary total disability, nor shall it apply to
6 compensation for medical treatment.

7 (1) Where workers compensation benefits have previously been
8 awarded through settlement or judicial or administrative determination in
9 Kansas, the percentage basis of the prior settlement or award shall
10 conclusively establish the amount of functional impairment determined to
11 be preexisting. Where workers compensation benefits have not previously
12 been awarded through settlement or judicial or administrative
13 determination in Kansas, the amount of preexisting functional impairment
14 shall be established by competent evidence.

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

17 (A) If the preexisting impairment is the result of injury sustained
18 while working for the employer against whom workers compensation
19 benefits are currently being sought, any award of compensation shall be
20 reduced by the current dollar value attributable under the workers
21 compensation act to the percentage of functional impairment determined to
22 be preexisting. The "current dollar value" shall be calculated by
23 multiplying the percentage of preexisting impairment by the compensation
24 rate in effect on the date of the accident or injury against which the
25 reduction will be applied.

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

29 (f) If the employee receives, whether periodically or by lump sum,
30 retirement benefits under the federal social security act or retirement
31 benefits from any other retirement system, program, policy or plan ~~which~~
32 *that* is provided by the employer against which the claim is being made,
33 any compensation benefit payments which the employee is eligible to
34 receive under the workers compensation act for such claim shall be
35 reduced by the weekly equivalent amount of the total amount of all such
36 retirement benefits, less any portion of any such retirement benefit, other
37 than retirement benefits under the federal social security act, that is
38 attributable to payments or contributions made by the employee, but in no
39 event shall the workers compensation benefit be less than the workers
40 compensation benefit payable for the employee's percentage of functional
41 impairment. Where the employee elects to take retirement benefits in a
42 lump sum, the lump sum payment shall be amortized at the rate of 4% per
43 year over the employee's life expectancy to determine the weekly

1 equivalent value of the benefits.

2 Sec. 46. K.S.A. 2019 Supp. 44-706 is hereby amended to read as
3 follows: 44-706. The secretary shall examine whether an individual has
4 separated from employment for each week claimed. The secretary shall
5 apply the provisions of this section to the individual's most recent
6 employment prior to the week claimed. An individual shall be disqualified
7 for benefits:

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

25 (1) The individual was forced to leave work because of illness or
26 injury upon the advice of a licensed and practicing health care provider
27 and, upon learning of the necessity for absence, immediately notified the
28 employer thereof, or the employer consented to the absence, and after
29 recovery from the illness or injury, when recovery was certified by a
30 practicing health care provider, the individual returned to the employer and
31 offered to perform services and the individual's regular work or
32 comparable and suitable work was not available. As used in this paragraph
33 "health care provider" means any person licensed by the proper licensing
34 authority of any state to engage in the practice of medicine and surgery,
35 osteopathy, chiropractic, dentistry, optometry, podiatry or psychology;

36 (2) the individual left temporary work to return to the regular
37 employer;

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

40 (4) the spouse of an individual who is a member of the armed forces
41 of the United States who left work because of the voluntary or involuntary
42 transfer of the individual's spouse from one job to another job, which is for
43 the same employer or for a different employer, at a geographic location

1 which makes it unreasonable for the individual to continue work at the
2 individual's job. For the purposes of this provision the term "armed forces"
3 means active duty in the army, navy, marine corps, air force, coast guard or
4 any branch of the military reserves of the United States;

5 (5) the individual left work because of hazardous working conditions;
6 in determining whether or not working conditions are hazardous for an
7 individual, the degree of risk involved to the individual's health, safety and
8 morals, the individual's physical fitness and prior training and the working
9 conditions of workers engaged in the same or similar work for the same
10 and other employers in the locality shall be considered; as used in this
11 paragraph, "hazardous working conditions" means working conditions that
12 could result in a danger to the physical or mental well-being of the
13 individual; each determination as to whether hazardous working
14 conditions exist shall include, but shall not be limited to, a consideration
15 of: (A) The safety measures used or the lack thereof; and (B) the condition
16 of equipment or lack of proper equipment; no work shall be considered
17 hazardous if the working conditions surrounding the individual's work are
18 the same or substantially the same as the working conditions generally
19 prevailing among individuals performing the same or similar work for
20 other employers engaged in the same or similar type of activity;

21 (6) the individual left work to enter training approved under section
22 236(a)(1) of the federal trade act of 1974, provided the work left is not of a
23 substantially equal or higher skill level than the individual's past adversely
24 affected employment, as defined for purposes of the federal trade act of
25 1974, and wages for such work are not less than 80% of the individual's
26 average weekly wage as determined for the purposes of the federal trade
27 act of 1974;

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

32 (8) the individual left work to accept better work; each determination
33 as to whether or not the work accepted is better work shall include, but
34 shall not be limited to, consideration of: (A) The rate of pay, the hours of
35 work and the probable permanency of the work left as compared to the
36 work accepted; (B) the cost to the individual of getting to the work left in
37 comparison to the cost of getting to the work accepted; and (C) the
38 distance from the individual's place of residence to the work accepted in
39 comparison to the distance from the individual's residence to the work left;

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

1 (10) the individual left work because of a substantial violation of the
2 work agreement by the employing unit and, before the individual left, the
3 individual had exhausted all remedies provided in such agreement for the
4 settlement of disputes before terminating. For the purposes of this
5 paragraph, a demotion based on performance does not constitute a
6 violation of the work agreement;

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

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

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

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

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

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

22 (v) the individual's reasonable belief that termination of employment
23 is necessary to avoid other situations which may cause domestic violence
24 and to provide for the future safety of the individual or the individual's
25 family.

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

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

30 (ii) a police record documenting the abuse;

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

37 (iv) medical documentation of the abuse;

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

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

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

5 (b) If the individual has been discharged or suspended for misconduct
6 connected with the individual's work. The disqualification shall begin the
7 day following the separation and shall continue until after the individual
8 becomes reemployed and in cases where the disqualification is due to
9 discharge for misconduct has had earnings from insured work of at least
10 three times the individual's determined weekly benefit amount, except that
11 if an individual is discharged for gross misconduct connected with the
12 individual's work, such individual shall be disqualified for benefits until
13 such individual again becomes employed and has had earnings from
14 insured work of at least eight times such individual's determined weekly
15 benefit amount. In addition, all wage credits attributable to the
16 employment from which the individual was discharged for gross
17 misconduct connected with the individual's work shall be canceled. No
18 such cancellation of wage credits shall affect prior payments made as a
19 result of a prior separation.

20 (1) (A) For the purposes of this subsection, "misconduct" is defined as
21 a violation of a duty or obligation reasonably owed the employer as a
22 condition of employment including, but not limited to, a violation of a
23 company rule, including a safety rule, if: ~~(A)~~(i) The individual knew or
24 should have known about the rule; ~~(B)~~(ii) the rule was lawful and
25 reasonably related to the job; and ~~(C)~~(iii) the rule was fairly and
26 consistently enforced.

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

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

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

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

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

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

43 (ii) the individual had knowledge of the employer's attendance

1 expectation; and

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

4 (C) For the purposes of this subsection, if an employee disputes being
5 absent or tardy without good cause, the employee shall present evidence
6 that a majority of the employee's absences or tardiness were for good
7 cause. If the employee alleges that the employee's repeated absences or
8 tardiness were the result of health related issues, such evidence shall
9 include documentation from a licensed and practicing health care provider
10 as defined in subsection (a)(1).

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

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

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

21 (b) *the basis for such conduct is the possession of such identification*
22 *card or the possession or use of medical cannabis in accordance with the*
23 *Kansas equal access act, section 1 et seq., and amendments thereto.*

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

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

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

30 (iii) a positive breath alcohol test or a positive chemical test,
31 provided:

32 (a) The test was either:

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

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

38 (3) requested pursuant to a written policy of the employer of which
39 the employee had knowledge and was a required condition of
40 employment;

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

43 (5) there was reasonable suspicion to believe that the individual used,

1 had possession of, or was impaired by alcoholic liquor, cereal malt
2 beverage or a nonprescribed controlled substance while working;

3 (b) the test sample was collected either:

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

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

9 (3) as prescribed by the written policy of the employer of which the
10 employee had knowledge and which constituted a required condition of
11 employment;

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

14 (5) at a time contemporaneous with the events establishing probable
15 cause;

16 (c) the collecting and labeling of a chemical test sample was
17 performed by a licensed health care professional or any other individual
18 certified pursuant to paragraph—~~(b)(3)(A)(iii)(f)~~ (b)(3)(B)(iii)(f) or
19 authorized to collect or label test samples by federal or state law, or a
20 federal or state rule or regulation having the force or effect of law,
21 including law enforcement personnel;

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

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

31 (f) the breath alcohol test was administered by an individual trained
32 to perform breath tests, the breath testing instrument used was certified
33 and operated strictly according to a description provided by the
34 manufacturers and the reliability of the instrument performance was
35 assured by testing with alcohol standards; and

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

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

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

42 (b) the test was administered as part of an employee assistance
43 program or other drug or alcohol treatment program in which the

1 employee was participating voluntarily or as a condition of further
2 employment;

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

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

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

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

12 (C) For purposes of this subsection:

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

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

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

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

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

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

28 (vii) "positive breath test" ~~shall mean~~ *means* a test result showing an
29 alcohol concentration of 0.04 or greater, or the levels listed in 49 C.F.R.
30 part 40, if applicable, unless the test was administered as part of an
31 employee assistance program or other drug or alcohol treatment program
32 in which the employee was participating voluntarily or as a condition of
33 further employment, in which case "positive chemical test" ~~shall mean~~
34 *means* a test result showing an alcohol concentration at or above the levels
35 provided for in the assistance or treatment program;

36 (viii) "positive chemical test" ~~shall mean~~ *means* a chemical result
37 showing a concentration at or above the levels listed in K.S.A. 44-501, and
38 amendments thereto, or 49 C.F.R. part 40, as applicable, for the drugs or
39 abuse listed therein, unless the test was administered as part of an
40 employee assistance program or other drug or alcohol treatment program
41 in which the employee was participating voluntarily or as a condition of
42 further employment, in which case "positive chemical test" shall mean a
43 chemical result showing a concentration at or above the levels provided for

1 in the assistance or treatment program.

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

4 (A) The employer discharged the individual after learning the
5 individual was seeking other work or when the individual gave notice of
6 future intent to quit, except that the individual shall be disqualified after
7 the time at which such individual intended to quit and any individual who
8 commits misconduct after such individual gives notice to such individual's
9 intent to quit shall be disqualified;

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

12 (i) Inefficiency;

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

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

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

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

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

21 (c) If the individual has failed, without good cause, to either apply for
22 suitable work when so directed by the employment office of the secretary
23 of labor, or to accept suitable work when offered to the individual by the
24 employment office, the secretary of labor, or an employer, such
25 disqualification shall begin with the week in which such failure occurred
26 and shall continue until the individual becomes reemployed and has had
27 earnings from insured work of at least three times such individual's
28 determined weekly benefit amount. In determining whether or not any
29 work is suitable for an individual, the secretary of labor, or a person or
30 persons designated by the secretary, shall consider the degree of risk
31 involved to health, safety and morals, physical fitness and prior training,
32 experience and prior earnings, length of unemployment and prospects for
33 securing local work in the individual's customary occupation or work for
34 which the individual is reasonably fitted by training or experience, and the
35 distance of the available work from the individual's residence.
36 Notwithstanding any other provisions of this act, an otherwise eligible
37 individual shall not be disqualified for refusing an offer of suitable
38 employment, or failing to apply for suitable employment when notified by
39 an employment office, or for leaving the individual's most recent work
40 accepted during approved training, including training approved under
41 section 236(a)(1) of the trade act of 1974, if the acceptance of or applying
42 for suitable employment or continuing such work would require the
43 individual to terminate approved training and no work shall be deemed

1 suitable and benefits shall not be denied under this act to any otherwise
2 eligible individual for refusing to accept new work under any of the
3 following conditions: (1) If the position offered is vacant due directly to a
4 strike, lockout or other labor dispute; (2) if the remuneration, hours or
5 other conditions of the work offered are substantially less favorable to the
6 individual than those prevailing for similar work in the locality; (3) if as a
7 condition of being employed, the individual would be required to join or to
8 resign from or refrain from joining any labor organization; and (4) if the
9 individual left employment as a result of domestic violence, and the
10 position offered does not reasonably accommodate the individual's
11 physical, psychological, safety, or legal needs relating to such domestic
12 violence.

13 (d) For any week with respect to which the secretary of labor, or a
14 person or persons designated by the secretary, finds that the individual's
15 unemployment is due to a stoppage of work which exists because of a
16 labor dispute or there would have been a work stoppage had normal
17 operations not been maintained with other personnel previously and
18 currently employed by the same employer at the factory, establishment or
19 other premises at which the individual is or was last employed, except that
20 this subsection (d) shall not apply if it is shown to the satisfaction of the
21 secretary of labor, or a person or persons designated by the secretary, that:
22 (1) The individual is not participating in or financing or directly interested in
23 in the labor dispute which caused the stoppage of work; and (2) the
24 individual does not belong to a grade or class of workers of which,
25 immediately before the commencement of the stoppage, there were
26 members employed at the premises at which the stoppage occurs any of
27 whom are participating in or financing or directly interested in the dispute.
28 If in any case separate branches of work which are commonly conducted
29 as separate businesses in separate premises are conducted in separate
30 departments of the same premises, each such department shall, for the
31 purpose of this subsection be deemed to be a separate factory,
32 establishment or other premises. For the purposes of this subsection,
33 failure or refusal to cross a picket line or refusal for any reason during the
34 continuance of such labor dispute to accept the individual's available and
35 customary work at the factory, establishment or other premises where the
36 individual is or was last employed shall be considered as participation and
37 interest in the labor dispute.

38 (e) For any week with respect to which or a part of which the
39 individual has received or is seeking unemployment benefits under the
40 unemployment compensation law of any other state or of the United
41 States, except that if the appropriate agency of such other state or the
42 United States finally determines that the individual is not entitled to such
43 unemployment benefits, this disqualification shall not apply.

1 (f) For any week with respect to which the individual is entitled to
2 receive any unemployment allowance or compensation granted by the
3 United States under an act of congress to ex-service men and women in
4 recognition of former service with the military or naval services of the
5 United States.

6 (g) For the period of five years beginning with the first day following
7 the last week of unemployment for which the individual received benefits,
8 or for five years from the date the act was committed, whichever is the
9 later, if the individual, or another in such individual's behalf with the
10 knowledge of the individual, has knowingly made a false statement or
11 representation, or has knowingly failed to disclose a material fact to obtain
12 or increase benefits under this act or any other unemployment
13 compensation law administered by the secretary of labor. In addition to the
14 penalties set forth in K.S.A. 44-719, and amendments thereto, an
15 individual who has knowingly made a false statement or representation or
16 who has knowingly failed to disclose a material fact to obtain or increase
17 benefits under this act or any other unemployment compensation law
18 administered by the secretary of labor shall be liable for a penalty in the
19 amount equal to 25% of the amount of benefits unlawfully received.
20 Notwithstanding any other provision of law, such penalty shall be
21 deposited into the employment security trust fund.

22 (h) For any week with respect to which the individual is receiving
23 compensation for temporary total disability or permanent total disability
24 under the workmen's compensation law of any state or under a similar law
25 of the United States.

26 (i) For any week of unemployment on the basis of service in an
27 instructional, research or principal administrative capacity for an
28 educational institution as defined in K.S.A. 44-703(v), and amendments
29 thereto, if such week begins during the period between two successive
30 academic years or terms or, when an agreement provides instead for a
31 similar period between two regular but not successive terms during such
32 period or during a period of paid sabbatical leave provided for in the
33 individual's contract, if the individual performs such services in the first of
34 such academic years or terms and there is a contract or a reasonable
35 assurance that such individual will perform services in any such capacity
36 for any educational institution in the second of such academic years or
37 terms.

38 (j) For any week of unemployment on the basis of service in any
39 capacity other than service in an instructional, research, or administrative
40 capacity in an educational institution, as defined in K.S.A. 44-703(v), and
41 amendments thereto, if such week begins during the period between two
42 successive academic years or terms if the individual performs such
43 services in the first of such academic years or terms and there is a

1 reasonable assurance that the individual will perform such services in the
2 second of such academic years or terms, except that if benefits are denied
3 to the individual under this subsection and the individual was not offered
4 an opportunity to perform such services for the educational institution for
5 the second of such academic years or terms, such individual shall be
6 entitled to a retroactive payment of benefits for each week for which the
7 individual filed a timely claim for benefits and for which benefits were
8 denied solely by reason of this subsection.

9 (k) For any week of unemployment on the basis of service in any
10 capacity for an educational institution as defined in K.S.A. 44-703(v), and
11 amendments thereto, if such week begins during an established and
12 customary vacation period or holiday recess, if the individual performs
13 services in the period immediately before such vacation period or holiday
14 recess and there is a reasonable assurance that such individual will perform
15 such services in the period immediately following such vacation period or
16 holiday recess.

17 (l) For any week of unemployment on the basis of any services,
18 substantially all of which consist of participating in sports or athletic
19 events or training or preparing to so participate, if such week begins during
20 the period between two successive sport seasons or similar period if such
21 individual performed services in the first of such seasons or similar periods
22 and there is a reasonable assurance that such individual will perform such
23 services in the later of such seasons or similar periods.

24 (m) For any week on the basis of services performed by an alien
25 unless such alien is an individual who was lawfully admitted for
26 permanent residence at the time such services were performed, was
27 lawfully present for purposes of performing such services, or was
28 permanently residing in the United States under color of law at the time
29 such services were performed, including an alien who was lawfully present
30 in the United States as a result of the application of the provisions of
31 section 212(d)(5) of the federal immigration and nationality act. Any data
32 or information required of individuals applying for benefits to determine
33 whether benefits are not payable to them because of their alien status shall
34 be uniformly required from all applicants for benefits. In the case of an
35 individual whose application for benefits would otherwise be approved, no
36 determination that benefits to such individual are not payable because of
37 such individual's alien status shall be made except upon a preponderance
38 of the evidence.

39 (n) For any week in which an individual is receiving a governmental
40 or other pension, retirement or retired pay, annuity or other similar
41 periodic payment under a plan maintained by a base period employer and
42 to which the entire contributions were provided by such employer, except
43 that: (1) If the entire contributions to such plan were provided by the base

1 period employer but such individual's weekly benefit amount exceeds such
2 governmental or other pension, retirement or retired pay, annuity or other
3 similar periodic payment attributable to such week, the weekly benefit
4 amount payable to the individual shall be reduced, but not below zero, by
5 an amount equal to the amount of such pension, retirement or retired pay,
6 annuity or other similar periodic payment which is attributable to such
7 week; ~~or~~ (2) if only a portion of contributions to such plan were provided
8 by the base period employer, the weekly benefit amount payable to such
9 individual for such week shall be reduced, but not below zero, by the
10 prorated weekly amount of the pension, retirement or retired pay, annuity
11 or other similar periodic payment after deduction of that portion of the
12 pension, retirement or retired pay, annuity or other similar periodic
13 payment that is directly attributable to the percentage of the contributions
14 made to the plan by such individual; ~~or~~ (3) if the entire contributions to the
15 plan were provided by such individual, or by the individual and an
16 employer, or any person or organization, who is not a base period
17 employer, no reduction in the weekly benefit amount payable to the
18 individual for such week shall be made under this subsection; or (4)
19 whatever portion of contributions to such plan were provided by the base
20 period employer, if the services performed for the employer by such
21 individual during the base period, or remuneration received for the
22 services, did not affect the individual's eligibility for, or increased the
23 amount of, such pension, retirement or retired pay, annuity or other similar
24 periodic payment, no reduction in the weekly benefit amount payable to
25 the individual for such week shall be made under this subsection. No
26 reduction shall be made for payments made under the social security act or
27 railroad retirement act of 1974.

28 (o) For any week of unemployment on the basis of services
29 performed in any capacity and under any of the circumstances described in
30 subsection (i), (j) or (k) ~~which~~ that an individual performed in an
31 educational institution while in the employ of an educational service
32 agency. For the purposes of this subsection, the term "educational service
33 agency" means a governmental agency or entity which is established and
34 operated exclusively for the purpose of providing such services to one or
35 more educational institutions.

36 (p) For any week of unemployment on the basis of service as a school
37 bus or other motor vehicle driver employed by a private contractor to
38 transport pupils, students and school personnel to or from school-related
39 functions or activities for an educational institution, as defined in K.S.A.
40 44-703(v), and amendments thereto, if such week begins during the period
41 between two successive academic years or during a similar period between
42 two regular terms, whether or not successive, if the individual has a
43 contract or contracts, or a reasonable assurance thereof, to perform

1 services in any such capacity with a private contractor for any educational
2 institution for both such academic years or both such terms. An individual
3 shall not be disqualified for benefits as provided in this subsection for any
4 week of unemployment on the basis of service as a bus or other motor
5 vehicle driver employed by a private contractor to transport persons to or
6 from nonschool-related functions or activities.

7 (q) For any week of unemployment on the basis of services
8 performed by the individual in any capacity and under any of the
9 circumstances described in subsection (i), (j), (k) or (o) ~~which~~ *that* are
10 provided to or on behalf of an educational institution, as defined in K.S.A.
11 44-703(v), and amendments thereto, while the individual is in the employ
12 of an employer which is a governmental entity, Indian tribe or any
13 employer described in section 501(c)(3) of the federal internal revenue
14 code of 1986 which is exempt from income under section 501(a) of the
15 code.

16 (r) For any week in which an individual is registered at and attending
17 an established school, training facility or other educational institution, or is
18 on vacation during or between two successive academic years or terms. An
19 individual shall not be disqualified for benefits as provided in this
20 subsection provided:

21 (1) The individual was engaged in full-time employment concurrent
22 with the individual's school attendance;

23 (2) the individual is attending approved training as defined in K.S.A.
24 44-703(s), and amendments thereto; or

25 (3) the individual is attending evening, weekend or limited day time
26 classes, which would not affect availability for work, and is otherwise
27 eligible under K.S.A. 44-705(c), and amendments thereto.

28 (s) For any week with respect to which an individual is receiving or
29 has received remuneration in the form of a back pay award or settlement.
30 The remuneration shall be allocated to the week or weeks in the manner as
31 specified in the award or agreement, or in the absence of such specificity
32 in the award or agreement, such remuneration shall be allocated to the
33 week or weeks in which such remuneration, in the judgment of the
34 secretary, would have been paid.

35 (1) For any such weeks that an individual receives remuneration in
36 the form of a back pay award or settlement, an overpayment will be
37 established in the amount of unemployment benefits paid and shall be
38 collected from the claimant.

39 (2) If an employer chooses to withhold from a back pay award or
40 settlement, amounts paid to a claimant while they claimed unemployment
41 benefits, such employer shall pay the department the amount withheld.
42 With respect to such amount, the secretary shall have available all of the
43 collection remedies authorized or provided in K.S.A. 44-717, and

1 amendments thereto.

2 (t) (1) Any applicant for or recipient of unemployment benefits who
3 tests positive for unlawful use of a controlled substance or controlled
4 substance analog shall be required to complete a substance abuse treatment
5 program approved by the secretary of labor, secretary of commerce or
6 secretary for children and families, and a job skills program approved by
7 the secretary of labor, secretary of commerce or the secretary for children
8 and families. Subject to applicable federal laws, any applicant for or
9 recipient of unemployment benefits who fails to complete or refuses to
10 participate in the substance abuse treatment program or job skills program
11 as required under this subsection shall be ineligible to receive
12 unemployment benefits until completion of such substance abuse
13 treatment and job skills programs. Upon completion of both substance
14 abuse treatment and job skills programs, such applicant for or recipient of
15 unemployment benefits may be subject to periodic drug screening, as
16 determined by the secretary of labor. Upon a second positive test for
17 unlawful use of a controlled substance or controlled substance analog, an
18 applicant for or recipient of unemployment benefits shall be ordered to
19 complete again a substance abuse treatment program and job skills
20 program, and shall be terminated from unemployment benefits for a period
21 of 12 months, or until such applicant for or recipient of unemployment
22 benefits completes both substance abuse treatment and job skills programs,
23 whichever is later. Upon a third positive test for unlawful use of a
24 controlled substance or controlled substance analog, an applicant for or a
25 recipient of unemployment benefits shall be terminated from receiving
26 unemployment benefits, subject to applicable federal law.

27 (2) Any individual who has been discharged or refused employment
28 for failing a preemployment drug screen required by an employer may
29 request that the drug screening specimen be sent to a different drug testing
30 facility for an additional drug screening. Any such individual who requests
31 an additional drug screening at a different drug testing facility shall be
32 required to pay the cost of drug screening.

33 (3) *The provisions of this subsection shall not apply to any individual*
34 *who is a patient holding an identification card issued pursuant to section*
35 *10, and amendments thereto.*

36 (u) If the individual was found not to have a disqualifying
37 adjudication or conviction under K.S.A. 39-970 or 65-5117, and
38 amendments thereto, was hired and then was subsequently convicted of a
39 disqualifying felony under K.S.A. 39-970 or 65-5117, and amendments
40 thereto, and discharged pursuant to K.S.A. 39-970 or 65-5117, and
41 amendments thereto. The disqualification shall begin the day following the
42 separation and shall continue until after the individual becomes
43 reemployed and has had earnings from insured work of at least three times

1 the individual's determined weekly benefit amount.

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

9 Sec. 47. K.S.A. 44-1009 is hereby amended to read as follows: 44-
10 1009. (a) It shall be an unlawful employment practice:

11 (1) For an employer, because of the race, religion, color, sex,
12 disability, national origin or ancestry of any person to refuse to hire or
13 employ such person to bar or discharge such person from employment or
14 to otherwise discriminate against such person in compensation or in terms,
15 conditions or privileges of employment; to limit, segregate, separate,
16 classify or make any distinction in regards to employees; or to follow any
17 employment procedure or practice which, in fact, results in discrimination,
18 segregation or separation without a valid business necessity.

19 (2) For a labor organization, because of the race, religion, color, sex,
20 disability, national origin or ancestry of any person, to exclude or to expel
21 from its membership such person or to discriminate in any way against any
22 of its members or against any employer or any person employed by an
23 employer.

24 (3) For any employer, employment agency or labor organization to
25 print or circulate or cause to be printed or circulated any statement,
26 advertisement or publication, or to use any form of application for
27 employment or membership or to make any inquiry in connection with
28 prospective employment or membership, which expresses, directly or
29 indirectly, any limitation, specification or discrimination as to race,
30 religion, color, sex, disability, national origin or ancestry, or any intent to
31 make any such limitation, specification or discrimination, unless based on
32 a bona fide occupational qualification.

33 (4) For any employer, employment agency or labor organization to
34 discharge, expel or otherwise discriminate against any person because such
35 person has opposed any practices or acts forbidden under this act or
36 because such person has filed a complaint, testified or assisted in any
37 proceeding under this act.

38 (5) For an employment agency to refuse to list and properly classify
39 for employment or to refuse to refer any person for employment or
40 otherwise discriminate against any person because of such person's race,
41 religion, color, sex, disability, national origin or ancestry; or to comply
42 with a request from an employer for a referral of applicants for
43 employment if the request expresses, either directly or indirectly, any

1 limitation, specification or discrimination as to race, religion, color, sex,
2 disability, national origin or ancestry.

3 (6) For an employer, labor organization, employment agency, or
4 school which provides, coordinates or controls apprenticeship, on-the-job,
5 or other training or retraining program, to maintain a practice of
6 discrimination, segregation or separation because of race, religion, color,
7 sex, disability, national origin or ancestry, in admission, hiring,
8 assignments, upgrading, transfers, promotion, layoff, dismissal,
9 apprenticeship or other training or retraining program, or in any other
10 terms, conditions or privileges of employment, membership,
11 apprenticeship or training; or to follow any policy or procedure which, in
12 fact, results in such practices without a valid business motive.

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

16 (8) For an employer, labor organization, employment agency or joint
17 labor-management committee to: (A) Limit, segregate or classify a job
18 applicant or employee in a way that adversely affects the opportunities or
19 status of such applicant or employee because of the disability of such
20 applicant or employee; (B) participate in a contractual or other
21 arrangement or relationship, including a relationship with an employment
22 or referral agency, labor union, an organization providing fringe benefits to
23 an employee or an organization providing training and apprenticeship
24 programs that has the effect of subjecting a qualified applicant or
25 employee with a disability to the discrimination prohibited by this act; (C)
26 utilize standards criteria, or methods of administration that have the effect
27 of discrimination on the basis of disability or that perpetuate the
28 discrimination of others who are subject to common administrative
29 control; (D) exclude or otherwise deny equal jobs or benefits to a qualified
30 individual because of the known disability of an individual with whom the
31 qualified individual is known to have a relationship or association; (E) not
32 make reasonable accommodations to the known physical or mental
33 limitations of an otherwise qualified individual with a disability who is an
34 applicant or employee, unless such employer, labor organization,
35 employment agency or joint labor-management committee can
36 demonstrate that the accommodation would impose an undue hardship on
37 the operation of the business thereof; (F) deny employment opportunities
38 to a job applicant or employee who is an otherwise qualified individual
39 with a disability, if such denial is based on the need to make reasonable
40 accommodation to the physical or mental impairments of the employee or
41 applicant; (G) use qualification standards, employment tests or other
42 selection criteria that screen out or tend to screen out an individual with a
43 disability or a class of individuals with disabilities unless the standard, test

1 or other selection criteria, as used, is shown to be job-related for the
2 position in question and is consistent with business necessity; or (H) fail to
3 select and administer tests concerning employment in the most effective
4 manner to ensure that, when such test is administered to a job applicant or
5 employee who has a disability that impairs sensory, manual or speaking
6 skills, the test results accurately reflect the skills, aptitude or whatever
7 other factor of such applicant or employee that such test purports to
8 measure, rather than reflecting the impaired sensory, manual or speaking
9 skills of such employee or applicant—(, except where such skills are the
10 factors that the test purports to measure).

11 (9) For any employer to:

12 (A) Seek to obtain, to obtain or to use genetic screening or testing
13 information of an employee or a prospective employee to distinguish
14 between or discriminate against or restrict any right or benefit otherwise
15 due or available to an employee or a prospective employee; or

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

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

23 (i) *Refuse to hire or employ a person;*

24 (ii) *bar or discharge such person from employment; or*

25 (iii) *otherwise discriminate against such person in compensation or*
26 *in terms, conditions or privileges of employment without a valid business*
27 *necessity.*

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

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

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

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

43 (1) For any person, as defined herein being the owner, operator,

1 lessee, manager, agent or employee of any place of public accommodation
2 to refuse, deny or make a distinction, directly or indirectly, in offering its
3 goods, services, facilities, and accommodations to any person as covered
4 by this act because of race, religion, color, sex, disability, national origin or
5 ancestry, except where a distinction because of sex is necessary because of
6 the intrinsic nature of such accommodation.

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

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

17 Sec. 48. K.S.A. 44-1015 is hereby amended to read as follows: 44-
18 1015. As used in this act, unless the context otherwise requires:

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

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

21 (1) All vacant or unimproved land; and

22 (2) any building or structure ~~which~~ *that* is occupied or designed or
23 intended for occupancy, or any building or structure having a portion
24 thereof ~~which~~ *that* is occupied or designed or intended for occupancy.

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

26 (d) "Person" means an individual, corporation, partnership,
27 association, labor organization, legal representative, mutual company,
28 joint-stock company, trust, unincorporated organization, trustee, trustee in
29 bankruptcy, receiver and fiduciary.

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

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

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

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

41 (i) "Familial status" means having one or more individuals less than
42 18 years of age domiciled with:

43 (1) A parent or another person having legal custody of such

1 individual or individuals; or

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

4 Sec. 49. K.S.A. 2019 Supp. 65-1120 is hereby amended to read as
5 follows: 65-1120. (a) *Grounds for disciplinary actions.* The board may
6 deny, revoke, limit or suspend any license or authorization to practice
7 nursing as a registered professional nurse, as a licensed practical nurse, as
8 an advanced practice registered nurse or as a registered nurse anesthetist
9 that is issued by the board or applied for under this act, or may require the
10 licensee to attend a specific number of hours of continuing education in
11 addition to any hours the licensee may already be required to attend or
12 may publicly or privately censure a licensee or holder of a temporary
13 permit or authorization, if the applicant, licensee or holder of a temporary
14 permit or authorization is found after hearing:

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

17 (2) to have been guilty of a felony or to have been guilty of a
18 misdemeanor involving an illegal drug offense unless the applicant or
19 licensee establishes sufficient rehabilitation to warrant the public trust,
20 except that notwithstanding K.S.A. 74-120, and amendments thereto, no
21 license or authorization to practice nursing as a licensed professional
22 nurse, as a licensed practical nurse, as an advanced practice registered
23 nurse or registered nurse anesthetist shall be granted to a person with a
24 felony conviction for a crime against persons as specified in article 34 of
25 chapter 21 of the Kansas Statutes Annotated, prior to their repeal, or article
26 54 of chapter 21 of the Kansas Statutes Annotated, or K.S.A. 2019 Supp.
27 21-6104, 21-6325, 21-6326 or 21-6418, and amendments thereto;

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

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

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

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

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

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

43 (9) to have a license to practice nursing as a registered nurse or as a

1 practical nurse denied, revoked, limited or suspended, or to be publicly or
2 privately censured, by a licensing authority of another state, agency of the
3 United States government, territory of the United States or country or to
4 have other disciplinary action taken against the applicant or licensee by a
5 licensing authority of another state, agency of the United States
6 government, territory of the United States or country. A certified copy of
7 the record or order of public or private censure, denial, suspension,
8 limitation, revocation or other disciplinary action of the licensing authority
9 of another state, agency of the United States government, territory of the
10 United States or country shall constitute prima facie evidence of such a
11 fact for purposes of this paragraph (9); or

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

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

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

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

23 (b) *Proceedings.* Upon filing of a sworn complaint with the board
24 charging a person with having been guilty of any of the unlawful practices
25 specified in subsection (a), two or more members of the board shall
26 investigate the charges, or the board may designate and authorize an
27 employee or employees of the board to conduct an investigation. After
28 investigation, the board may institute charges. If an investigation, in the
29 opinion of the board, reveals reasonable grounds for believing the
30 applicant or licensee is guilty of the charges, the board shall fix a time and
31 place for proceedings, which shall be conducted in accordance with the
32 provisions of the Kansas administrative procedure act.

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

40 (d) *Costs.* If final agency action of the board in a proceeding under
41 this section is adverse to the applicant or licensee, the costs of the board's
42 proceedings shall be charged to the applicant or licensee as in ordinary
43 civil actions in the district court, but if the board is the unsuccessful party,

1 the costs shall be paid by the board. Witness fees and costs may be taxed
2 by the board according to the statutes relating to procedure in the district
3 court. All costs accrued by the board, when it is the successful party, and
4 ~~which that~~ the attorney general certifies cannot be collected from the
5 applicant or licensee shall be paid from the board of nursing fee fund. All
6 moneys collected following board proceedings shall be credited in full to
7 the board of nursing fee fund.

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

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

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

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

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

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

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

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

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

32 (2) *the advanced practice registered nurse is a patient or caregiver*
33 *holding an identification card issued pursuant to section 10, and*
34 *amendments thereto, possesses or has possessed, or uses or has used*
35 *medical cannabis in accordance with the Kansas equal access act, section*
36 *1 et seq., and amendments thereto.*

37 Sec. 50. K.S.A. 79-5201 is hereby amended to read as follows: 79-
38 5201. As used in ~~this act~~ *article 52 of chapter 79 of the Kansas Statutes*
39 *Annotated, and amendments thereto:*

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

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

6 (e)(b) "dealer" means any person who, in violation of Kansas law,
 7 manufactures, produces, ships, transports or imports into Kansas or in any
 8 manner acquires or possesses more than 28 grams of marijuana, or more
 9 than one gram of any controlled substance, or 10 or more dosage units of
 10 any controlled substance ~~which~~ *that* is not sold by weight;

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

15 (d) "*marijuana*" means any marijuana, whether real or counterfeit,
 16 as defined in K.S.A. 2019 Supp. 21-5701, and amendments thereto, that is
 17 held, possessed, transported, transferred, sold or offered for sale in
 18 violation of the laws of Kansas; and

19 (e) "*medical cannabis*" means the same as defined in section 2, and
 20 amendments thereto.

21 Sec. 51. K.S.A. 79-5210 is hereby amended to read as follows: 79-
 22 5210. Nothing in this act requires persons registered under article 16 of
 23 chapter 65 of the Kansas Statutes Annotated, *and amendments thereto*, or
 24 otherwise lawfully in possession of marijuana, *medical cannabis* or a
 25 controlled substance to pay the tax required under this act.

26 Sec. 52. K.S.A. 44-1009, 44-1015, 79-5201 and 79-5210 and K.S.A.
 27 2019 Supp. 8-1567, 21-5703, 21-5705, 21-5706, 21-5707, 21-5709, 21-
 28 5710, 21-6109, 23-3201, 38-2269, 44-501, 44-706 and 65-1120 are hereby
 29 repealed.

30 Sec. 53. This act shall take effect and be in force from and after its
 31 publication in the statute book.