

Senate Substitute for HOUSE BILL No. 2043

AN ACT concerning the secretary for aging and disability services; powers, duties and functions; relating to programs for all-inclusive care for the elderly; amending K.S.A. 75-5308d and 76-12a24 and K.S.A. 2014 Supp. 8-2,144, 8-1025, 39-923, 59-29a24, 65-6233, 75-53,105 and 75-6524 and repealing the existing sections.

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

Section 1. K.S.A. 2014 Supp. 75-53,105 is hereby amended to read as follows: 75-53,105. (a) *As used in this section, "secretary" means the secretary for children and families or the secretary for aging and disability services.*

(b) ~~The secretary for children and families~~ shall upon request receive from the Kansas bureau of investigation such criminal history record information as necessary for the purpose of determining initial and continuing qualification for employment or for participation in any program administered by the secretary for the placement, safety, protection or treatment of vulnerable children or adults.

~~(b)~~(c) The secretary shall have access to any court orders or adjudications of any court of record, any records of such orders, adjudications, arrests, nonconvictions, convictions, expungements, juvenile records, juvenile expungements, diversions and any criminal history record information in the possession of the Kansas bureau of investigation concerning such employee or individual.

~~(c)~~(d) If a nationwide criminal records check of all records noted above is necessary, as determined by the secretary, the secretary's request will be based on the submission of fingerprints to the Kansas bureau of investigation and the federal bureau of investigation for the identification of the individual and to obtain criminal history record information, including arrest and nonconviction data.

~~(d)~~(e) Fees for such records checks shall be assessed to the secretary.

~~(e)~~(f) Disclosure or use of any such information received by the secretary or a designee of the secretary or of any record containing such information, for any purpose other than that provided by this act is a class A misdemeanor and shall constitute grounds for removal from office or termination of employment. Nothing in this act shall be construed to make unlawful or prohibit the disclosure of any such information in a hearing or court proceeding involving programs administered by the secretary or prohibit the disclosure of any such information to the post auditor in accordance with and subject to the provisions of the legislative post audit act.

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

(1) The alcohol concentration in the person's blood or breath, as shown by any competent evidence, including other competent evidence, as defined in ~~paragraph (1) of subsection (f) of K.S.A. 8-1013(f)(1)~~, and amendments thereto, is 0.04 or more;

(2) the alcohol concentration in the person's blood or breath, as measured within three hours of the time of driving a commercial motor vehicle, is 0.04 or more; or

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

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

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

(B) on a second conviction a class A, nonperson misdemeanor. The person convicted shall be sentenced to not less than 90 days nor more than one year's imprisonment and fined not less than \$1,250 nor more than \$1,750. The person convicted shall serve at least five consecutive days' imprisonment before the person is granted probation, suspension or reduction of sentence or parole or is otherwise released. The five days'

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

(C) on a third or subsequent conviction a nonperson felony. The person convicted shall be sentenced to not less than 90 days nor more than one year's imprisonment and fined not less than \$1,750 nor more than \$2,500. The person convicted shall not be eligible for release on probation, suspension or reduction of sentence or parole until the person has served at least 90 days' imprisonment. The 90 days' imprisonment mandated by this subsection may be served in a work release program only after such person has served 48 consecutive hours' imprisonment, provided such work release program requires such person to return to confinement at the end of each day in the work release program. The person convicted, if placed into a work release program, shall serve a minimum of 2,160 hours of confinement. Such 2,160 hours of confinement shall be a period of at least 48 consecutive hours of imprisonment followed by confinement hours at the end of and continuing to the beginning of the offender's work day. The court may place the person convicted under a house arrest program pursuant to K.S.A. 2014 Supp. 21-6609, and amendments thereto, to serve the 90 days' imprisonment mandated by this subsection only after such person has served 48 consecutive hours' imprisonment. The person convicted, if placed under house arrest, shall be monitored by an electronic monitoring device, which verifies the offender's location. The offender shall serve a minimum of 2,160 hours of confinement within the boundaries of the offender's residence. Any exceptions to remaining within the boundaries of the offender's residence provided for in the house arrest agreement shall not be counted as part of the 2,160 hours.

(2) In addition, for any conviction pursuant to subsection (b)(1)(C), at the time of the filing of the judgment form or journal entry as required by K.S.A. 22-3426 or K.S.A. 2014 Supp. 21-6711, and amendments thereto, the court shall cause a certified copy to be sent to the officer having the offender in charge. The court shall determine whether the offender, upon release from imprisonment, shall be supervised by community correctional services or court services based upon the risk and needs of the offender. The risk and needs of the offender shall be determined by use of a risk assessment tool specified by the Kansas sentencing commission. The law enforcement agency maintaining custody and control of a defendant for imprisonment shall cause a certified copy of the judgment form or journal entry to be sent to the supervision office designated by the court and upon expiration of the term of imprisonment shall deliver the defendant to a location designated by the supervision office designated by the court. After the term of imprisonment imposed by the court, the person shall be placed on supervision to community correctional services or court services, as determined by the court, for a mandatory one-year period of supervision, which such period of supervision shall not be reduced. During such supervision, the person shall be required to participate in a multidisciplinary model of services for substance use disorders facilitated by a *Kansas department of social and rehabilitation for aging and disability* services designated care coordination agency to include assessment and, if appropriate, referral to a community based substance use disorder treatment including recovery man-

agement and mental health counseling as needed. The multidisciplinary team shall include the designated care coordination agency, the supervision officer, the ~~of social and rehabilitation~~ *aging and disability* services department designated treatment provider and the offender. Any violation of the conditions of such supervision may subject such person to revocation of supervision and imprisonment in jail for the remainder of the period of imprisonment, the remainder of the supervision period, or any combination or portion thereof.

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

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

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

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

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

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

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

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

(j) (1) Nothing contained in this section shall be construed as pre-

venting any city from enacting ordinances, or any county from adopting resolutions, declaring acts prohibited or made unlawful by this section as unlawful or prohibited in such city or county and prescribing penalties for violation thereof.

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

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

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

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

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

(m) The alternatives set out in subsections (a)(1), (a)(2) and (a)(3) may be pleaded in the alternative, and the state, city or county may, but shall not be required to, elect one or two of the three prior to submission of the case to the fact finder.

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

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

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

(3) "conviction" includes: (A) Entering into a diversion agreement in lieu of further criminal proceedings on a complaint alleging a violation of a crime described in subsection (n)(2); (B) conviction of a violation of an ordinance of a city in this state, a resolution of a county in this state or any law of another state which would constitute a crime described in subsection (n)(1) or (n)(2); and (C) receiving punishment under the uniform code of military justice or Kansas code of military justice for an act

which was committed on a military reservation and which would constitute a crime described in subsection (n)(1) or (n)(2) if committed off a military reservation in this state;

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

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

(o) For the purpose of this section:

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

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

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

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

Sec. 3. K.S.A. 2014 Supp. 8-1025 is hereby amended to read as follows: 8-1025. (a) Refusing to submit to a test to determine the presence of alcohol or drugs is refusing to submit to or complete a test or tests deemed consented to under ~~subsection (a) of~~ K.S.A. 8-1001(a), and amendments thereto, if such person has:

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

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

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

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

(B) on a second conviction a class A, nonperson misdemeanor, except

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

(C) on a second conviction a nonperson felony if the person has a prior conviction which occurred within the preceding 10 years, not including any period of incarceration. The person convicted shall be sentenced to not less than 90 days nor more than one year's imprisonment and fined not less than \$1,750 nor more than \$2,500. The person convicted shall not be eligible for release on probation, suspension or reduction of sentence or parole until the person has served at least 90 days' imprisonment. The 90 days' imprisonment mandated by this subsection may be served in a work release program only after such person has served 48 consecutive hours' imprisonment, provided such work release program requires such person to return to confinement at the end of each day in the work release program. The person convicted, if placed into a work release program, shall serve a minimum of 2,160 hours of confinement. Such 2,160 hours of confinement shall be a period of at least 48 consecutive hours of imprisonment followed by confinement hours at the end of and continuing to the beginning of the offender's work day. The court may place the person convicted under a house arrest program pursuant to K.S.A. 2014 Supp. 21-6609, and amendments thereto, to serve the 90 days' imprisonment mandated by this subsection only after such person has served 48 consecutive hours' imprisonment. The person convicted, if placed under house arrest, shall be monitored by an electronic monitoring device, which verifies the offender's location. The offender shall serve a minimum of 2,160 hours of confinement within the boundaries of the offender's residence. Any exceptions to remaining within the boundaries of the offender's residence provided for in the house arrest agreement shall not be counted as part of the 2,160 hours; and

(D) on a third or subsequent conviction a nonperson felony. The person convicted shall be sentenced to not less than 90 days nor more than one year's imprisonment and fined \$2,500. The person convicted shall not be eligible for release on probation, suspension or reduction of sentence or parole until the person has served at least 90 days' imprisonment. The 90 days' imprisonment mandated by this subsection may be served in a work release program only after such person has served 72 consecutive hours' imprisonment, provided such work release program requires such person to return to confinement at the end of each day in the work release program. The person convicted, if placed into a work release program, shall serve a minimum of 2,160 hours of confinement. Such 2,160 hours of confinement shall be a period of at least 72 consecutive hours of imprisonment followed by confinement hours at the end of and continuing to the beginning of the offender's work day. The court may place the person convicted under a house arrest program pursuant to K.S.A. 2014 Supp. 21-6609, and amendments thereto, to serve the 90 days' imprisonment mandated by this subsection only after such person has served 72 consecutive hours' imprisonment. The person convicted, if

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

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

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

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

(c) Any person convicted of violating this section or an ordinance

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

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

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

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

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

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

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

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

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

(2) any convictions for a violation of the following sections which occurred during a person's lifetime shall be taken into account, but only convictions occurring when such person was 18 years of age or older: (A) This section; (B) driving a commercial motor vehicle under the influence, K.S.A. 8-2,144, and amendments thereto; (C) operating a vessel under the influence of alcohol or drugs, K.S.A. 32-1131, and amendments thereto; (D) involuntary manslaughter while driving under the influence of alcohol or drugs, K.S.A. 21-3442, prior to its repeal, or ~~subsection (a)(3) of K.S.A. 2014 Supp. 21-5405(a)(3)~~, and amendments thereto; (E) aggravated battery as described in ~~subsection (b)(3) of K.S.A. 2014 Supp. 21-5413(b)(3)~~, and amendments thereto; and (F) aggravated vehicular homicide, K.S.A. 21-3405a, prior to its repeal, or vehicular battery, K.S.A. 21-3405b, prior to its repeal, if the crime was committed while committing a violation of K.S.A. 8-1567, and amendments thereto;

(3) "conviction" includes: (A) Entering into a diversion agreement in

lieu of further criminal proceedings on a complaint alleging a violation of a crime described in subsection (h)(2); (B) conviction of a violation of an ordinance of a city in this state, a resolution of a county in this state or any law of another state which would constitute a crime described in subsection (h)(1) or (h)(2); and (C) receiving punishment under the uniform code of military justice or Kansas code of military justice for an act which was committed on a military reservation and which would constitute a crime described in subsection (h)(1) or (h)(2) if committed off a military reservation in this state;

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

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

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

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

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

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

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

(3) An ordinance may grant to a municipal court jurisdiction over a violation of such ordinance which is concurrent with the jurisdiction of the district court over a violation of this section, notwithstanding that the elements of such ordinance violation are the same as the elements of a violation of this section that would constitute, and be punished as, a felony.

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

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

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

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

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

(l) No plea bargaining agreement shall be entered into nor shall any judge approve a plea bargaining agreement entered into for the purpose of permitting a person charged with a violation of this section, or a violation of any ordinance of a city or resolution of any county in this state which prohibits the acts prohibited by this section, to avoid the mandatory penalties established by this section or by the ordinance. For the purpose of this subsection, entering into a diversion agreement pursuant to K.S.A.

12-4413 et seq. or 22-2906 et seq., and amendments thereto, shall not constitute plea bargaining.

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

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

Sec. 4. K.S.A. 2014 Supp. 59-29a24 is hereby amended to read as follows: 59-29a24. (a) Any patient in the custody of the secretary of ~~social and rehabilitation~~ *for aging and disability* services pursuant to K.S.A. 59-29a01 et seq., and amendments thereto, prior to filing any civil action naming as the defendant pursuant to the rules of civil procedure, the state of Kansas, any political subdivision of the state of Kansas, any public official, the secretary of ~~social and rehabilitation~~ *for aging and disability* services or an employee of the *Kansas* department of ~~social and rehabilitation~~ *for aging and disability* services, while such employee is engaged in the performance of such employee’s duty, shall be required to have exhausted such patient’s administrative remedies, established by procedures adopted pursuant to ~~subsection (d) of~~ K.S.A. 59-29a22(d), and amendments thereto, concerning such civil action. Upon filing a petition in a civil action, such patient shall file with such petition proof that the administrative remedies have been exhausted.

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

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

(c) In no event shall such patient bring a civil action or appeal a judgment in a civil action or proceeding under this section if such patient has, on three or more prior occasions, while in the custody of the secretary of ~~social and rehabilitation~~ *for aging and disability* services pursuant to K.S.A. 59-29a01 et seq., and amendments thereto, brought an action or appeal in a court of the state of Kansas or of the United States that was dismissed on the grounds that it was frivolous, malicious or failed to state a claim upon which relief may be granted, unless the patient is under imminent danger of serious physical injury.

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

Sec. 5. K.S.A. 2014 Supp. 65-6233 is hereby amended to read as follows: 65-6233. (a) The department of health and environment, in conjunction with the *Kansas* department of ~~social and rehabilitation~~ *for aging and disability* services, shall review and update its rules and regulations establishing eligibility requirements for the Kansas program of medical assistance established in accordance with title XIX of the federal social security act, 42 U.S.C. § 1396 et seq. Such review shall include the establishment of a procedure which permits the holder of a life insurance policy which has a cash surrender value to give the Kansas program of medical assistance established in accordance with title XIX of the federal social security act a collateral assignment of the proceeds of such life insurance policy. The collateral assignment may be used by the insured in lieu of any requirement that such life insurance policy be sold in order for the insured to meet any property ownership limitation contained in any eligibility requirement for participation in the Kansas program of medical assistance established in accordance with title XIX of the federal social security act. The collateral assignment shall be for an amount not

to exceed the proceeds of such policy necessary to reimburse the Kansas program of medical assistance established in accordance with title XIX of the federal social security act for any amount paid by such program for medical benefits provided to the insured. The collateral assignment shall be irrevocable as established by a written agreement binding on the holder of the life insurance policy to not affect or otherwise use the cash surrender value of such policy after the irrevocable assignment pursuant to rules and regulations promulgated by the secretary of the department of health and environment.

(b) The department of health and environment is hereby directed to seek any necessary waivers from program requirements of the federal government as may be needed to carry out the provisions of this section and to maximize federal matching and other funds with respect to the provisions of this section. If the department of health and environment determines that one or more waivers from program requirements of the federal government are needed to carry out the provisions of this section, the department of health and environment shall implement the provisions of this section only if such waivers to federal program requirements have been obtained from the federal government.

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

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

Sec. 6. K.S.A. 75-5308d is hereby amended to read as follows: 75-5308d. Mental health and retardation services created by the provisions of K.S.A. 75-5308b is hereby abolished and all of the powers, duties and functions of such division are transferred to and conferred and imposed upon mental health and developmental disabilities established pursuant K.S.A. 75-5308e, *and amendments thereto*, under the supervision of the secretary ~~of social and rehabilitation for aging and disability services~~ as part of the *Kansas department of social and rehabilitation for aging and disability services*. The commissioner of mental health and retardation services created by K.S.A. 75-5308b is hereby abolished and all of the powers, duties and functions of such commissioner are transferred to and conferred and imposed upon the commissioner of mental health and developmental disabilities appointed pursuant to K.S.A. 75-5308e, *and amendments thereto*.

Sec. 7. K.S.A. 2014 Supp. 75-6524 is hereby amended to read as follows: 75-6524. (a) In the coverage for the next health plan coverage year commencing on January 1, 2011, the state employees health care commission shall provide for the coverage of services for the diagnosis and treatment of autism spectrum disorder in any covered individual whose age is less than 19 years. Such coverage shall be subject to the following terms and conditions:

(1) Such coverage shall be provided in a manner determined in consultation with the autism services provider and the patient. Services provided by an autism services provider under this section shall include applied behavioral analysis when required by a licensed physician, licensed psychologist or licensed specialist clinical social worker but otherwise shall be limited to those services prescribed or ordered by a licensed physician, licensed psychologist or licensed specialist clinical social worker. Services provided pursuant to this paragraph shall be those services which are or have been recognized by peer reviewed literature as providing medical

benefit to the patient based upon the patient's particular autism spectrum disorder.

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

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

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

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

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

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

(A) Review utilization of such services; and

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

(b) For the purposes of this section:

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

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

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

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

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

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

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

(2) At the next legislative session following receipt of the report required in paragraph (1), the legislature may consider whether or not to require the coverage for autism spectrum disorder required by subsection (a) to be included in any individual or group health insurance policy, medical service plan, contract, hospital service corporation contract, hospital and medical service corporation contract, fraternal benefit society

or health maintenance organization which provides coverage for accident and health services and which is delivered, issued for delivery, amended or renewed in this state on or after July 1, 2013.

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

Sec. 9. K.S.A. 2014 Supp. 39-923 is hereby amended to read as follows: 39-923. (a) As used in this act:

(1) “Adult care home” means any nursing facility, nursing facility for mental health, intermediate care facility for people with intellectual disability, assisted living facility, residential health care facility, home plus, boarding care home and adult day care facility; all of which are classifications of adult care homes and are required to be licensed by the secretary for aging and disability services.

(2) “Nursing facility” means any place or facility operating 24 hours a day, seven days a week, caring for six or more individuals not related within the third degree of relationship to the administrator or owner by blood or marriage and who, due to functional impairments, need skilled nursing care to compensate for activities of daily living limitations.

(3) “Nursing facility for mental health” means any place or facility operating 24 hours a day, seven days a week, caring for six or more individuals not related within the third degree of relationship to the administrator or owner by blood or marriage and who, due to functional impairments, need skilled nursing care and special mental health services to compensate for activities of daily living limitations.

(4) “Intermediate care facility for people with intellectual disability” means any place or facility operating 24 hours a day, seven days a week, caring for four or more individuals not related within the third degree of relationship to the administrator or owner by blood or marriage and who, due to functional impairments caused by intellectual disability or related conditions, need services to compensate for activities of daily living limitations.

(5) “Assisted living facility” means any place or facility caring for six or more individuals not related within the third degree of relationship to the administrator, operator or owner by blood or marriage and who, by choice or due to functional impairments, may need personal care and may need supervised nursing care to compensate for activities of daily living limitations and in which the place or facility includes apartments for residents and provides or coordinates a range of services including personal care or supervised nursing care available 24 hours a day, seven days a week, for the support of resident independence. The provision of skilled nursing procedures to a resident in an assisted living facility is not prohibited by this act. Generally, the skilled services provided in an assisted living facility shall be provided on an intermittent or limited term basis, or if limited in scope, a regular basis.

(6) “Residential health care facility” means any place or facility, or a contiguous portion of a place or facility, caring for six or more individuals not related within the third degree of relationship to the administrator, operator or owner by blood or marriage and who, by choice or due to functional impairments, may need personal care and may need supervised nursing care to compensate for activities of daily living limitations and in which the place or facility includes individual living units and provides or coordinates personal care or supervised nursing care available on a 24-hour, seven-days-a-week basis for the support of resident independence. The provision of skilled nursing procedures to a resident in a residential health care facility is not prohibited by this act. Generally, the skilled services provided in a residential health care facility shall be provided on an intermittent or limited term basis, or if limited in scope, a regular basis.

(7) “Home plus” means any residence or facility caring for not more than 12 individuals not related within the third degree of relationship to

the operator or owner by blood or marriage unless the resident in need of care is approved for placement by the secretary for children and families, and who, due to functional impairment, needs personal care and may need supervised nursing care to compensate for activities of daily living limitations. The level of care provided to residents shall be determined by preparation of the staff and rules and regulations developed by the Kansas department for aging and disability services. An adult care home may convert a portion of one wing of the facility to a not less than five-bed and not more than 12-bed home plus facility provided that the home plus facility remains separate from the adult care home, and each facility must remain contiguous. Any home plus that provides care for more than eight individuals after the effective date of this act shall adjust staffing personnel and resources as necessary to meet residents' needs in order to maintain the current level of nursing care standards. Personnel of any home plus who provide services for residents with dementia shall be required to take annual dementia care training.

(8) "Boarding care home" means any place or facility operating 24 hours a day, seven days a week, caring for not more than 10 individuals not related within the third degree of relationship to the operator or owner by blood or marriage and who, due to functional impairment, need supervision of activities of daily living but who are ambulatory and essentially capable of managing their own care and affairs.

(9) "Adult day care" means any place or facility operating less than 24 hours a day caring for individuals not related within the third degree of relationship to the operator or owner by blood or marriage and who, due to functional impairment, need supervision of or assistance with activities of daily living.

(10) "Place or facility" means a building or any one or more complete floors of a building, or any one or more complete wings of a building, or any one or more complete wings and one or more complete floors of a building, and the term "place or facility" may include multiple buildings.

(11) "Skilled nursing care" means services performed by or under the immediate supervision of a registered professional nurse and additional licensed nursing personnel. Skilled nursing includes administration of medications and treatments as prescribed by a licensed physician or dentist; and other nursing functions which require substantial nursing judgment and skill based on the knowledge and application of scientific principles.

(12) "Supervised nursing care" means services provided by or under the guidance of a licensed nurse with initial direction for nursing procedures and periodic inspection of the actual act of accomplishing the procedures; administration of medications and treatments as prescribed by a licensed physician or dentist and assistance of residents with the performance of activities of daily living.

(13) "Resident" means all individuals kept, cared for, treated, boarded or otherwise accommodated in any adult care home.

(14) "Person" means any individual, firm, partnership, corporation, company, association or joint-stock association, and the legal successor thereof.

(15) "Operate an adult care home" means to own, lease, establish, maintain, conduct the affairs of or manage an adult care home, except that for the purposes of this definition the word "own" and the word "lease" shall not include hospital districts, cities and counties which hold title to an adult care home purchased or constructed through the sale of bonds.

(16) "Licensing agency" means the secretary for aging and disability services.

(17) "Skilled nursing home" means a nursing facility.

(18) "Intermediate nursing care home" means a nursing facility.

(19) "Apartment" means a private unit which includes, but is not limited to, a toilet room with bathing facilities, a kitchen, sleeping, living and storage area and a lockable door.

(20) "Individual living unit" means a private unit which includes, but is not limited to, a toilet room with bathing facilities, sleeping, living and storage area and a lockable door.

(21) "Operator" means an individual registered pursuant to the operator registration act, K.S.A. 2014 Supp. 39-973 et seq., and amendments thereto, who may be appointed by a licensee to have the authority and

responsibility to oversee an assisted living facility or residential health care facility with fewer than 61 residents, a home plus or adult day care facility.

(22) “Activities of daily living” means those personal, functional activities required by an individual for continued well-being, including, but not limited to, eating, nutrition, dressing, personal hygiene, mobility and toileting.

(23) “Personal care” means care provided by staff to assist an individual with, or to perform activities of daily living.

(24) “Functional impairment” means an individual has experienced a decline in physical, mental and psychosocial well-being and as a result, is unable to compensate for the effects of the decline.

(25) “Kitchen” means a food preparation area that includes a sink, refrigerator and a microwave oven or stove.

(26) The term “intermediate personal care home” for purposes of those individuals applying for or receiving veterans’ benefits means residential health care facility.

(27) “Paid nutrition assistant” means an individual who is paid to feed residents of an adult care home, or who is used under an arrangement with another agency or organization, who is trained by a person meeting nurse aide instructor qualifications as prescribed by 42 C.F.R. § 483.152, 42 C.F.R. § 483.160 and ~~paragraph (h) of 42 C.F.R. § 483.35(h)~~, and who provides such assistance under the supervision of a registered professional or licensed practical nurse.

(28) “Medicaid program” means the Kansas program of medical assistance for which federal or state moneys, or any combination thereof, are expended, or any successor federal or state, or both, health insurance program or waiver granted thereunder.

(29) “Licensee” means any person or persons acting jointly or severally who are licensed by the secretary for aging and disability services pursuant to the adult care home licensure act, K.S.A. 39-923 et seq., and amendments thereto.

(b) The term “adult care home” shall not include institutions operated by federal or state governments, except institutions operated by the director of the Kansas commission on veterans affairs office, hospitals or institutions for the treatment and care of psychiatric patients, child care facilities, maternity centers, hotels, offices of physicians or hospices which are certified to participate in the medicare program under 42 code of federal regulations, chapter IV, ~~section~~ § 418.1 et seq., and amendments thereto, and which provide services only to hospice patients, *or centers approved by the centers for medicare and medicaid services as a program for all-inclusive care for the elderly (PACE) under 42 code of federal regulations, chapter IV, part 460 et seq., and amendments thereto, which provides services only to PACE participants.*

(c) Nursing facilities in existence on the effective date of this act changing licensure categories to become residential health care facilities shall be required to provide private bathing facilities in a minimum of 20% of the individual living units.

(d) Facilities licensed under the adult care home licensure act on the day immediately preceding the effective date of this act shall continue to be licensed facilities until the annual renewal date of such license and may renew such license in the appropriate licensure category under the adult care home licensure act subject to the payment of fees and other conditions and limitations of such act.

(e) Nursing facilities with less than 60 beds converting a portion of the facility to residential health care shall have the option of licensing for residential health care for less than six individuals but not less than 10% of the total bed count within a contiguous portion of the facility.

(f) The licensing agency may by rule and regulation change the name of the different classes of homes when necessary to avoid confusion in terminology and the agency may further amend, substitute, change and in a manner consistent with the definitions established in this section, further define and identify the specific acts and services which shall fall within the respective categories of facilities so long as the above categories for adult care homes are used as guidelines to define and identify the specific acts.

Sec. 10. K.S.A. 75-5308d and 76-12a24 and K.S.A. 2014 Supp. 8-

2,144, 8-1025, 39-923, 59-29a24, 65-6233, 75-53,105 and 75-6524 are hereby repealed.

Sec. 11. This act shall take effect and be in force from and after its publication in the Kansas register.

I hereby certify that the above BILL originated in the HOUSE, and was adopted by that body

\_\_\_\_\_

HOUSE adopted  
Conference Committee Report \_\_\_\_\_

\_\_\_\_\_  
*Speaker of the House.*

\_\_\_\_\_  
*Chief Clerk of the House.*

Passed the SENATE  
as amended \_\_\_\_\_

SENATE adopted  
Conference Committee Report \_\_\_\_\_

\_\_\_\_\_  
*President of the Senate.*

\_\_\_\_\_  
*Secretary of the Senate.*

APPROVED \_\_\_\_\_

\_\_\_\_\_  
*Governor.*