

HOUSE BILL No. 2088

By Committee on Corrections and Juvenile Justice

1-18

1 AN ACT concerning ~~crimes, punishment and criminal procedure~~
2 **controlled substances**; relating to ~~sentencing~~; certified drug abuse
3 treatment programs; **removing cannabidiol oil from the definition of**
4 **marijuana**; amending K.S.A. ~~2016~~ **2017** Supp. **21-5701**, 21-6824 , **65-**
5 **4101 and 65-4111** and repealing the existing ~~section sections~~.
6

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

8 Section 1. K.S.A. ~~2016~~ **2017** Supp. 21-6824 is hereby amended to
9 read as follows: 21-6824. (a) There is hereby established a nonprison
10 sanction of certified drug abuse treatment programs for certain offenders
11 who are sentenced on or after November 1, 2003. Placement of offenders
12 in certified drug abuse treatment programs by the court shall be limited to
13 placement of adult offenders, convicted of a felony violation of ~~K.S.A. 65-~~
14 ~~4160 or 65-4162~~, prior to their repeal, K.S.A. 2010 Supp. 21-36a06, prior
15 to its transfer, or K.S.A. ~~2016~~ **2017** Supp. 21-5706, and amendments
16 thereto, *whose offense is classified in grid blocks:*

17 (1) ~~whose offense is classified in grid blocks~~ 5-C, 5-D, 5-E, 5-F, 5-G,
18 5-H or 5-I of the sentencing guidelines grid for drug crimes and such
19 offender has no felony conviction of K.S.A. 65-4142, 65-4159, 65-4161,
20 65-4163 or 65-4164, prior to their repeal, K.S.A. 2010 Supp. 21-36a03,
21 21-36a05 or 21-36a16, prior to their transfer, or K.S.A. ~~2016~~ **2017** Supp.
22 21-5703, 21-5705 or 21-5716, and amendments thereto, or any
23 substantially similar offense from another jurisdiction; or

24 (2) ~~whose offense is classified in grid blocks~~ 5-A, or 5-B, ~~4-A, 4-B, 4-~~
25 ~~C, 4-D, 4-E, 4-F, 4-G, 4-H, or 4-I~~ of the sentencing guidelines grid for
26 drug crimes, such offender has no felony conviction of K.S.A. 65-4142,
27 65-4159, 65-4161, 65-4163 or 65-4164, prior to their repeal, K.S.A. 2010
28 Supp. 21-36a03, 21-36a05 or 21-36a16, prior to their transfer, or K.S.A.
29 ~~2016~~ **2017** Supp. 21-5703, 21-5705 or 21-5716, and amendments thereto,
30 or any substantially similar offense from another jurisdiction, if the person
31 felonies in the offender's criminal history were severity level 8, 9 or 10 or
32 nongrid offenses of the sentencing guidelines grid for nondrug crimes, and
33 the court finds and sets forth with particularity the reasons for finding that
34 the safety of the members of the public will not be jeopardized by such

1 placement in a drug abuse treatment program.

2 (b) As a part of the presentence investigation pursuant to K.S.A. ~~2016~~
3 **2017** Supp. 21-6813, and amendments thereto, offenders who meet the
4 requirements of subsection (a), unless otherwise specifically ordered by
5 the court, shall be subject to:

6 (1) A drug abuse assessment which shall include a clinical interview
7 with a mental health professional and a recommendation concerning drug
8 abuse treatment for the offender; and

9 (2) a criminal risk-need assessment. The criminal risk-need
10 assessment shall assign a high or low risk status to the offender.

11 (c) If the offender is assigned a high risk status as determined by the
12 drug abuse assessment performed pursuant to subsection (b)(1) and a
13 moderate or high risk status as determined by the criminal risk-need
14 assessment performed pursuant to subsection (b)(2), the sentencing court
15 shall commit the offender to treatment in a drug abuse treatment program
16 until the court determines the offender is suitable for discharge by the
17 court. The term of treatment shall not exceed 18 months. The court may
18 extend the term of probation, pursuant to ~~subsection (c)(3) of K.S.A. 2016~~
19 **2017** Supp. 21-6608(c)(3), and amendments thereto. The term of treatment
20 may not exceed the term of probation.

21 (d) (1) Offenders who are committed to a drug abuse treatment
22 program pursuant to subsection (c) shall be supervised by community
23 correctional services.

24 (2) Offenders who are not committed to a drug abuse treatment
25 program pursuant to subsection (c) shall be supervised by community
26 correctional services or court services based on the result of the criminal
27 risk assessment.

28 (e) Placement of offenders under subsection (a)(2) shall be subject to
29 the departure sentencing statutes of the revised Kansas sentencing
30 guidelines act.

31 (f) (1) Offenders in drug abuse treatment programs shall be
32 discharged from such program if the offender:

33 (A) Is convicted of a new felony; or

34 (B) has a pattern of intentional conduct that demonstrates the
35 offender's refusal to comply with or participate in the treatment program,
36 as established by judicial finding.

37 (2) Offenders who are discharged from such program shall be subject
38 to the revocation provisions of ~~subsection (n) of K.S.A. 2016~~ **2017** Supp.
39 21-6604(n), and amendments thereto.

40 (g) As used in this section, "mental health professional" includes
41 licensed social workers, persons licensed to practice medicine and surgery,
42 licensed psychologists, licensed professional counselors or registered
43 alcohol and other drug abuse counselors licensed or certified as addiction

1 counselors who have been certified by the secretary of corrections to treat
2 offenders pursuant to K.S.A.—~~2016~~ 2017 Supp. 75-52,144, and
3 amendments thereto.

4 (h) (1) Offenders who meet the requirements of subsection (a) shall
5 not be subject to the provisions of this section and shall be sentenced as
6 otherwise provided by law, if such offenders:

7 (A) Are residents of another state and are returning to such state
8 pursuant to the interstate corrections compact or the interstate compact for
9 adult offender supervision; or

10 (B) are not lawfully present in the United States and being detained
11 for deportation; or

12 (C) do not meet the risk assessment levels provided in subsection (c).

13 (2) Such sentence shall not be considered a departure and shall not be
14 subject to appeal.

15 (i) The court may order an offender who otherwise does not meet the
16 requirements of subsection (c) to undergo one additional drug abuse
17 assessment while such offender is on probation. Such offender may be
18 ordered to undergo drug abuse treatment pursuant to subsection (a) if such
19 offender is determined to meet the requirements of subsection (c). The cost
20 of such assessment shall be paid by such offender.

21 *Sec. 2. K.S.A. 2017 Supp. 21-5701 is hereby amended to read as*
22 *follows: 21-5701. As used in K.S.A. 2017 Supp. 21-5701 through 21-*
23 *5717, and amendments thereto: (a) "Controlled substance" means any*
24 *drug, substance or immediate precursor included in any of the schedules*
25 *designated in K.S.A. 65-4105, 65-4107, 65-4109, 65-4111 and 65-4113,*
26 *and amendments thereto.*

27 *(b) (1) "Controlled substance analog" means a substance that is*
28 *intended for human consumption, and at least one of the following:*

29 *(A) The chemical structure of the substance is substantially similar*
30 *to the chemical structure of a controlled substance listed in or added to*
31 *the schedules designated in K.S.A. 65-4105 or 65-4107, and amendments*
32 *thereto;*

33 *(B) the substance has a stimulant, depressant or hallucinogenic*
34 *effect on the central nervous system substantially similar to the*
35 *stimulant, depressant or hallucinogenic effect on the central nervous*
36 *system of a controlled substance included in the schedules designated in*
37 *K.S.A. 65-4105 or 65-4107, and amendments thereto; or*

38 *(C) with respect to a particular individual, such individual*
39 *represents or intends the substance to have a stimulant, depressant or*
40 *hallucinogenic effect on the central nervous system substantially similar*
41 *to the stimulant, depressant or hallucinogenic effect on the central*
42 *nervous system of a controlled substance included in the schedules*
43 *designated in K.S.A. 65-4105 or 65-4107, and amendments thereto.*

1 (2) *"Controlled substance analog" does not include:*

2 (A) *A controlled substance;*

3 (B) *a substance for which there is an approved new drug*
4 *application; or*

5 (C) *a substance with respect to which an exemption is in effect for*
6 *investigational use by a particular person under section 505 of the*
7 *federal food, drug, and cosmetic act, 21 U.S.C. § 355, to the extent*
8 *conduct with respect to the substance is permitted by the exemption.*

9 (c) *"Cultivate" means the planting or promotion of growth of five*
10 *or more plants which contain or can produce controlled substances.*

11 (d) *"Distribute" means the actual, constructive or attempted*
12 *transfer from one person to another of some item whether or not there is*
13 *an agency relationship. "Distribute" includes, but is not limited to, sale,*
14 *offer for sale or any act that causes some item to be transferred from one*
15 *person to another. "Distribute" does not include acts of administering,*
16 *dispensing or prescribing a controlled substance as authorized by the*
17 *pharmacy act of the state of Kansas, the uniform controlled substances*
18 *act or otherwise authorized by law.*

19 (e) *"Drug" means:*

20 (1) *Substances recognized as drugs in the official United States*
21 *pharmacopeia, official homeopathic pharmacopoeia of the United States*
22 *or official national formulary or any supplement to any of them;*

23 (2) *substances intended for use in the diagnosis, cure, mitigation,*
24 *treatment or prevention of disease in ~~man~~ humans or animals;*

25 (3) *substances, other than food, intended to affect the structure or*
26 *any function of the body of ~~man~~ humans or animals; and*

27 (4) *substances intended for use as a component of any article*
28 *specified in paragraph (1), (2) or (3). It does not include devices or their*
29 *components, parts or accessories.*

30 (f) *"Drug paraphernalia" means all equipment and materials of*
31 *any kind which are used, or primarily intended or designed for use in*
32 *planting, propagating, cultivating, growing, harvesting, manufacturing,*
33 *compounding, converting, producing, processing, preparing, testing,*
34 *analyzing, packaging, repackaging, storing, containing, concealing,*
35 *injecting, ingesting, inhaling or otherwise introducing into the human*
36 *body a controlled substance and in violation of this act. "Drug*
37 *paraphernalia" ~~shall include~~ includes, but is not limited to:*

38 (1) *Kits used or intended for use in planting, propagating,*
39 *cultivating, growing or harvesting any species of plant which is a*
40 *controlled substance or from which a controlled substance can be*
41 *derived;*

42 (2) *kits used or intended for use in manufacturing, compounding,*
43 *converting, producing, processing or preparing controlled substances;*

- 1 (3) *isomerization devices used or intended for use in increasing the*
2 *potency of any species of plant which is a controlled substance;*
- 3 (4) *testing equipment used or intended for use in identifying or in*
4 *analyzing the strength, effectiveness or purity of controlled substances;*
- 5 (5) *scales and balances used or intended for use in weighing or*
6 *measuring controlled substances;*
- 7 (6) *diluents and adulterants, including, but not limited to, quinine*
8 *hydrochloride, mannitol, mannite, dextrose and lactose, which are used*
9 *or intended for use in cutting controlled substances;*
- 10 (7) *separation gins and sifters used or intended for use in removing*
11 *twigs and seeds from or otherwise cleaning or refining marijuana;*
- 12 (8) *blenders, bowls, containers, spoons and mixing devices used or*
13 *intended for use in compounding controlled substances;*
- 14 (9) *capsules, balloons, envelopes, bags and other containers used or*
15 *intended for use in packaging small quantities of controlled substances;*
- 16 (10) *containers and other objects used or intended for use in*
17 *storing or concealing controlled substances;*
- 18 (11) *hypodermic syringes, needles and other objects used or*
19 *intended for use in parenterally injecting controlled substances into the*
20 *human body;*
- 21 (12) *objects used or primarily intended or designed for use in*
22 *ingesting, inhaling or otherwise introducing marijuana, cocaine,*
23 *hashish, hashish oil, phencyclidine (PCP), methamphetamine or*
24 *amphetamine into the human body, such as:*
 - 25 (A) *Metal, wooden, acrylic, glass, stone, plastic or ceramic pipes*
26 *with or without screens, permanent screens, hashish heads or punctured*
27 *metal bowls;*
 - 28 (B) *water pipes, bongs or smoking pipes designed to draw smoke*
29 *through water or another cooling device;*
 - 30 (C) *carburetion pipes, glass or other heat resistant tubes or any*
31 *other device used, intended to be used or designed to be used to cause*
32 *vaporization of a controlled substance for inhalation;*
 - 33 (D) *smoking and carburetion masks;*
 - 34 (E) *roach clips, objects used to hold burning material, such as a*
35 *marijuana cigarette, that has become too small or too short to be held in*
36 *the hand;*
 - 37 (F) *miniature cocaine spoons and cocaine vials;*
 - 38 (G) *chamber smoking pipes;*
 - 39 (H) *carburetor smoking pipes;*
 - 40 (I) *electric smoking pipes;*
 - 41 (J) *air-driven smoking pipes;*
 - 42 (K) *chillums;*
 - 43 (L) *bongs;*

1 (M) ice pipes or chillers;

2 (N) any smoking pipe manufactured to disguise its intended
3 purpose;

4 (O) wired cigarette papers; or

5 (P) cocaine freebase kits.

6 "Drug paraphernalia" shall does not include any products, chemicals
7 or materials described in K.S.A. 2017 Supp. 21-5709(a), and
8 amendments thereto.

9 (g) "Immediate precursor" means a substance ~~which~~ that the state
10 board of pharmacy has found to be and by rules and regulations
11 designates as being the principal compound commonly used or produced
12 primarily for use and ~~which~~ that is an immediate chemical intermediary
13 used or likely to be used in the manufacture of a controlled substance,
14 the control of which is necessary to prevent, curtail or limit
15 manufacture.

16 (h) "Isomer" means all enantiomers and diastereomers.

17 (i) "Manufacture" means the production, preparation,
18 propagation, compounding, conversion or processing of a controlled
19 substance either directly or indirectly or by extraction from substances
20 of natural origin or independently by means of chemical synthesis or by
21 a combination of extraction and chemical synthesis. "Manufacture"
22 does not include:

23 (1) The preparation or compounding of a controlled substance by
24 an individual for the individual's own lawful use or the preparation,
25 compounding, packaging or labeling of a controlled substance:

26 (A) By a practitioner or the practitioner's agent pursuant to a
27 lawful order of a practitioner as an incident to the practitioner's
28 administering or dispensing of a controlled substance in the course of
29 the practitioner's professional practice; or

30 (B) by a practitioner or by the practitioner's authorized agent under
31 such practitioner's supervision for the purpose of or as an incident to
32 research, teaching or chemical analysis or by a pharmacist or medical
33 care facility as an incident to dispensing of a controlled substance; or

34 (2) the addition of diluents or adulterants, including, but not limited
35 to, quinine hydrochloride, mannitol, mannite, dextrose or lactose, which
36 are intended for use in cutting a controlled substance.

37 (j) "Marijuana" means all parts of all varieties of the plant
38 Cannabis whether growing or not, the seeds thereof, the resin extracted
39 from any part of the plant and every compound, manufacture, salt,
40 derivative, mixture or preparation of the plant, its seeds or resin.
41 "Marijuana" does not include: (1) The mature stalks of the plant, fiber
42 produced from the stalks, oil or cake made from the seeds of the plant,
43 any other compound, manufacture, salt, derivative, mixture or

1 *preparation of the mature stalks, except the resin extracted therefrom,*
2 *fiber, oil or cake or the sterilized seed of the plant which is incapable of*
3 *germination; or (2) any substance listed in schedules II through V of the*
4 *uniform controlled substances act cannabidiol, when included in a non-*
5 *intoxicating oil substance that does not include any controlled substance*
6 *ingredients.*

7 (k) *"Minor" means a person under 18 years of age.*

8 (l) *"Narcotic drug" means any of the following whether produced*
9 *directly or indirectly by extraction from substances of vegetable origin or*
10 *independently by means of chemical synthesis or by a combination of*
11 *extraction and chemical synthesis:*

12 (1) *Opium and opiate and any salt, compound, derivative or*
13 *preparation of opium or opiate;*

14 (2) *any salt, compound, isomer, derivative or preparation thereof*
15 *which is chemically equivalent or identical with any of the substances*
16 *referred to in paragraph (1) but not including the isoquinoline alkaloids*
17 *of opium;*

18 (3) *opium poppy and poppy straw;*

19 (4) *coca leaves and any salt, compound, derivative or preparation of*
20 *coca leaves and any salt, compound, isomer, derivative or preparation*
21 *thereof which is chemically equivalent or identical with any of these*
22 *substances, but not including decocainized coca leaves or extractions of*
23 *coca leaves which do not contain cocaine or ecgonine.*

24 (m) *"Opiate" means any substance having an addiction-forming or*
25 *addiction-sustaining liability similar to morphine or being capable of*
26 *conversion into a drug having addiction-forming or addiction-sustaining*
27 *liability. "Opiate" does not include, unless specifically designated as*
28 *controlled under K.S.A. 65-4102, and amendments thereto, the*
29 *dextrorotatory isomer of 3-methoxy-n-methylmorphinan and its salts*
30 *(dextromethorphan). "Opiate" does include its racemic and levorotatory*
31 *forms.*

32 (n) *"Opium poppy" means the plant of the species Papaver*
33 *somniferum L. except its seeds.*

34 (o) *"Person" means an individual, corporation, government or*
35 *governmental subdivision or agency, business trust, estate, trust,*
36 *partnership, association or any other legal entity.*

37 (p) *"Poppy straw" means all parts, except the seeds, of the opium*
38 *poppy, after mowing.*

39 (q) *"Possession" means having joint or exclusive control over an*
40 *item with knowledge of and intent to have such control or knowingly*
41 *keeping some item in a place where the person has some measure of*
42 *access and right of control.*

43 (r) *"School property" means property upon which is located a*

1 *structure used by a unified school district or an accredited nonpublic*
2 *school for student instruction or attendance or extracurricular activities*
3 *of pupils enrolled in kindergarten or any of the grades one through 12.*
4 *This definition shall not be construed as requiring that school be in*
5 *session or that classes are actually being held at the time of the offense*
6 *or that children must be present within the structure or on the property*
7 *during the time of any alleged criminal act. If the structure or property*
8 *meets the above definition, the actual use of that structure or property at*
9 *the time alleged shall not be a defense to the crime charged or the*
10 *sentence imposed.*

11 (s) *"Simulated controlled substance" means any product which*
12 *identifies itself by a common name or slang term associated with a*
13 *controlled substance and which indicates on its label or accompanying*
14 *promotional material that the product simulates the effect of a controlled*
15 *substance.*

16 *Sec. 3. K.S.A. 2017 Supp. 65-4101 is hereby amended to read as*
17 *follows: 65-4101. As used in this act: (a) "Administer" means the direct*
18 *application of a controlled substance, whether by injection, inhalation,*
19 *ingestion or any other means, to the body of a patient or research subject*
20 *by:*

21 (1) *A practitioner or pursuant to the lawful direction of a*
22 *practitioner; or*

23 (2) *the patient or research subject at the direction and in the*
24 *presence of the practitioner.*

25 (b) *"Agent" means an authorized person who acts on behalf of or*
26 *at the direction of a manufacturer, distributor or dispenser. It does not*
27 *include a common carrier, public warehouseman or employee of the*
28 *carrier or warehouseman.*

29 (c) *"Application service provider" means an entity that sells*
30 *electronic prescription or pharmacy prescription applications as a hosted*
31 *service where the entity controls access to the application and maintains*
32 *the software and records on its server.*

33 (d) *"Board" means the state board of pharmacy.*

34 (e) *"Bureau" means the bureau of narcotics and dangerous drugs,*
35 *United States department of justice, or its successor agency.*

36 (f) *"Controlled substance" means any drug, substance or*
37 *immediate precursor included in any of the schedules designated in*
38 *K.S.A. 65-4105, 65-4107, 65-4109, 65-4111 and 65-4113, and*
39 *amendments thereto.*

40 (g) (1) *"Controlled substance analog" means a substance that is*
41 *intended for human consumption, and at least one of the following:*

42 (A) *The chemical structure of the substance is substantially similar*
43 *to the chemical structure of a controlled substance listed in or added to*

1 *the schedules designated in K.S.A. 65-4105 or 65-4107, and amendments*
2 *thereto;*

3 *(B) the substance has a stimulant, depressant or hallucinogenic*
4 *effect on the central nervous system substantially similar to the*
5 *stimulant, depressant or hallucinogenic effect on the central nervous*
6 *system of a controlled substance included in the schedules designated in*
7 *K.S.A. 65-4105 or 65-4107, and amendments thereto; or*

8 *(C) with respect to a particular individual, such individual*
9 *represents or intends the substance to have a stimulant, depressant or*
10 *hallucinogenic effect on the central nervous system substantially similar*
11 *to the stimulant, depressant or hallucinogenic effect on the central*
12 *nervous system of a controlled substance included in the schedules*
13 *designated in K.S.A. 65-4105 or 65-4107, and amendments thereto.*

14 *(2) "Controlled substance analog" does not include:*

15 *(A) A controlled substance;*

16 *(B) a substance for which there is an approved new drug*
17 *application; or*

18 *(C) a substance with respect to which an exemption is in effect for*
19 *investigational use by a particular person under section 505 of the*
20 *federal food, drug and cosmetic act, 21 U.S.C. § 355, to the extent*
21 *conduct with respect to the substance is permitted by the exemption.*

22 *(h) "Counterfeit substance" means a controlled substance which,*
23 *or the container or labeling of which, without authorization bears the*
24 *trademark, trade name or other identifying mark, imprint, number or*
25 *device or any likeness thereof of a manufacturer, distributor or*
26 *dispenser other than the person who in fact manufactured, distributed or*
27 *dispensed the substance.*

28 *(i) "Cultivate" means the planting or promotion of growth of five*
29 *or more plants which contain or can produce controlled substances.*

30 *(j) "DEA" means the U.S. department of justice, drug enforcement*
31 *administration.*

32 *(k) "Deliver" or "delivery" means the actual, constructive or*
33 *attempted transfer from one person to another of a controlled substance,*
34 *whether or not there is an agency relationship.*

35 *(l) "Dispense" means to deliver a controlled substance to an*
36 *ultimate user or research subject by or pursuant to the lawful order of a*
37 *practitioner, including the packaging, labeling or compounding*
38 *necessary to prepare the substance for that delivery, or pursuant to the*
39 *prescription of a mid-level practitioner.*

40 *(m) "Dispenser" means a practitioner or pharmacist who*
41 *dispenses, or a physician assistant who has authority to dispense*
42 *prescription-only drugs in accordance with K.S.A. 65-28a08(b), and*
43 *amendments thereto.*

1 (n) *"Distribute" means to deliver other than by administering or*
2 *dispensing a controlled substance.*

3 (o) *"Distributor" means a person who distributes.*

4 (p) *"Drug" means: (1) Substances recognized as drugs in the*
5 *official United States pharmacopeia, official homeopathic*
6 *pharmacopoeia of the United States or official national formulary or*
7 *any supplement to any of them; (2) substances intended for use in the*
8 *diagnosis, cure, mitigation, treatment or prevention of disease in human*
9 *or animals; (3) substances (other than food) intended to affect the*
10 *structure or any function of the body of human or animals; and (4)*
11 *substances intended for use as a component of any article specified in*
12 *paragraph (1), (2) or (3). It does not include devices or their*
13 *components, parts or accessories.*

14 (q) *"Immediate precursor" means a substance which the board has*
15 *found to be and by rule and regulation designates as being the principal*
16 *compound commonly used or produced primarily for use and which is*
17 *an immediate chemical intermediary used or likely to be used in the*
18 *manufacture of a controlled substance, the control of which is necessary*
19 *to prevent, curtail or limit manufacture.*

20 (r) *"Electronic prescription" means an electronically prepared*
21 *prescription that is authorized and transmitted from the prescriber to the*
22 *pharmacy by means of electronic transmission.*

23 (s) *"Electronic prescription application" means software that is*
24 *used to create electronic prescriptions and that is intended to be installed*
25 *on the prescriber's computers and servers where access and records are*
26 *controlled by the prescriber.*

27 (t) *"Electronic signature" means a confidential personalized digital*
28 *key, code, number or other method for secure electronic data*
29 *transmissions which identifies a particular person as the source of the*
30 *message, authenticates the signatory of the message and indicates the*
31 *person's approval of the information contained in the transmission.*

32 (u) *"Electronic transmission" means the transmission of an*
33 *electronic prescription, formatted as an electronic data file, from a*
34 *prescriber's electronic prescription application to a pharmacy's*
35 *computer, where the data file is imported into the pharmacy prescription*
36 *application.*

37 (v) *"Electronically prepared prescription" means a prescription*
38 *that is generated using an electronic prescription application.*

39 (w) *"Facsimile transmission" or "fax transmission" means the*
40 *transmission of a digital image of a prescription from the prescriber or*
41 *the prescriber's agent to the pharmacy. "Facsimile transmission"*
42 *includes, but is not limited to, transmission of a written prescription*
43 *between the prescriber's fax machine and the pharmacy's fax machine;*

1 *transmission of an electronically prepared prescription from the*
2 *prescriber's electronic prescription application to the pharmacy's fax*
3 *machine, computer or printer; or transmission of an electronically*
4 *prepared prescription from the prescriber's fax machine to the*
5 *pharmacy's fax machine, computer or printer.*

6 (x) *"Intermediary" means any technology system that receives and*
7 *transmits an electronic prescription between the prescriber and the*
8 *pharmacy.*

9 (y) *"Isomer" means all enantiomers and diastereomers.*

10 (z) *"Manufacture" means the production, preparation,*
11 *propagation, compounding, conversion or processing of a controlled*
12 *substance either directly or indirectly or by extraction from substances*
13 *of natural origin or independently by means of chemical synthesis or by*
14 *a combination of extraction and chemical synthesis and includes any*
15 *packaging or repackaging of the substance or labeling or relabeling of*
16 *its container, except that this term does not include the preparation or*
17 *compounding of a controlled substance by an individual for the*
18 *individual's own lawful use or the preparation, compounding, packaging*
19 *or labeling of a controlled substance:*

20 (1) *By a practitioner or the practitioner's agent pursuant to a lawful*
21 *order of a practitioner as an incident to the practitioner's administering*
22 *or dispensing of a controlled substance in the course of the*
23 *practitioner's professional practice; or*

24 (2) *by a practitioner or by the practitioner's authorized agent under*
25 *such practitioner's supervision for the purpose of or as an incident to*
26 *research, teaching or chemical analysis or by a pharmacist or medical*
27 *care facility as an incident to dispensing of a controlled substance.*

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

40 (bb) *"Medical care facility" shall have the meaning ascribed to that*
41 *term means the same as defined in K.S.A. 65-425, and amendments*
42 *thereto.*

43 (cc) *"Mid-level practitioner" means a certified nurse-midwife*

1 *engaging in the independent practice of midwifery under the*
2 *independent practice of midwifery act, an advanced practice registered*
3 *nurse issued a license pursuant to K.S.A. 65-1131, and amendments*
4 *thereto, who has authority to prescribe drugs pursuant to a written*
5 *protocol with a responsible physician under K.S.A. 65-1130, and*
6 *amendments thereto, or a physician assistant licensed under the*
7 *physician assistant licensure act who has authority to prescribe drugs*
8 *pursuant to a written agreement with a supervising physician under*
9 *K.S.A. 65-28a08, and amendments thereto.*

10 *(dd) "Narcotic drug" means any of the following whether produced*
11 *directly or indirectly by extraction from substances of vegetable origin or*
12 *independently by means of chemical synthesis or by a combination of*
13 *extraction and chemical synthesis:*

14 *(1) Opium and opiate and any salt, compound, derivative or*
15 *preparation of opium or opiate;*

16 *(2) any salt, compound, isomer, derivative or preparation thereof*
17 *which is chemically equivalent or identical with any of the substances*
18 *referred to in paragraph (1) but not including the isoquinoline alkaloids*
19 *of opium;*

20 *(3) opium poppy and poppy straw;*

21 *(4) coca leaves and any salt, compound, derivative or preparation of*
22 *coca leaves, and any salt, compound, isomer, derivative or preparation*
23 *thereof which is chemically equivalent or identical with any of these*
24 *substances, but not including decocainized coca leaves or extractions of*
25 *coca leaves which do not contain cocaine or ecgonine.*

26 *(ee) "Opiate" means any substance having an addiction-forming or*
27 *addiction-sustaining liability similar to morphine or being capable of*
28 *conversion into a drug having addiction-forming or addiction-sustaining*
29 *liability. It does not include, unless specifically designated as controlled*
30 *under K.S.A. 65-4102, and amendments thereto, the dextrorotatory*
31 *isomer of 3-methoxy-n-methylmorphinan and its salts*
32 *(dextromethorphan). It does include its racemic and levorotatory forms.*

33 *(ff) "Opium poppy" means the plant of the species Papaver*
34 *somniferum l. except its seeds.*

35 *(gg) "Person" means an individual, corporation, government, or*
36 *governmental subdivision or agency, business trust, estate, trust,*
37 *partnership or association or any other legal entity.*

38 *(hh) "Pharmacist" means any natural person licensed under*
39 *K.S.A. 65-1625 et seq., and amendments thereto, to practice pharmacy.*

40 *(ii) "Pharmacist intern" means: (1) A student currently enrolled in*
41 *an accredited pharmacy program; (2) a graduate of an accredited*
42 *pharmacy program serving such person's internship; or (3) a graduate*
43 *of a pharmacy program located outside of the United States which is not*

1 *accredited and who had successfully passed equivalency examinations*
 2 *approved by the board.*

3 *(jj) "Pharmacy prescription application" means software that is*
 4 *used to process prescription information, is installed on a pharmacy's*
 5 *computers and servers, and is controlled by the pharmacy.*

6 *(kk) "Poppy straw" means all parts, except the seeds, of the opium*
 7 *poppy, after mowing.*

8 *(ll) "Practitioner" means a person licensed to practice medicine*
 9 *and surgery, dentist, podiatrist, veterinarian, optometrist, or scientific*
 10 *investigator or other person authorized by law to use a controlled*
 11 *substance in teaching or chemical analysis or to conduct research with*
 12 *respect to a controlled substance.*

13 *(mm) "Prescriber" means a practitioner or a mid-level practitioner.*

14 *(nn) "Production" includes the manufacture, planting, cultivation,*
 15 *growing or harvesting of a controlled substance.*

16 *(oo) "Readily retrievable" means that records kept by automatic*
 17 *data processing applications or other electronic or mechanized*
 18 *recordkeeping systems can be separated out from all other records*
 19 *within a reasonable time not to exceed 48 hours of a request from the*
 20 *board or other authorized agent or that hard-copy records are kept on*
 21 *which certain items are asterisked, redlined or in some other manner*
 22 *visually identifiable apart from other items appearing on the records.*

23 *(pp) "Ultimate user" means a person who lawfully possesses a*
 24 *controlled substance for such person's own use or for the use of a*
 25 *member of such person's household or for administering to an animal*
 26 *owned by such person or by a member of such person's household.*

27 *Sec. 4. K.S.A. 2017 Supp. 65-4111 is hereby amended to read as*
 28 *follows: 65-4111. (a) The controlled substances listed in this section are*
 29 *included in schedule IV and the number set forth opposite each drug or*
 30 *substance is the DEA controlled substances code that has been assigned*
 31 *to it.*

32 *(b) Any material, compound, mixture or preparation that contains*
 33 *any quantity of the following substances including its salts, isomers and*
 34 *salts of isomers whenever the existence of such salts, isomers and salts*
 35 *of isomers is possible within the specific chemical designation and*
 36 *having a potential for abuse associated with a depressant effect on the*
 37 *central nervous system:*

38	<i>(1) Alprazolam.....</i>	<i>2882</i>
39	<i>(2) Barbital.....</i>	<i>2145</i>
40	<i>(3) Bromazepam</i>	<i>2748</i>
41	<i>(4) Camazepam.....</i>	<i>2749</i>
42	<i>(5) Carisoprodol.....</i>	<i>8192</i>
43	<i>(6) Chloral betaine.....</i>	<i>2460</i>

1	(7) <i>Chloral hydrate</i>	2465
2	(8) <i>Chlordiazepoxide</i>	2744
3	(9) <i>Clobazam</i>	2751
4	(10) <i>Clonazepam</i>	2737
5	(11) <i>Clorazepate</i>	2768
6	(12) <i>Clotiazepam</i>	2752
7	(13) <i>Cloxazolam</i>	2753
8	(14) <i>Delorazepam</i>	2754
9	(15) <i>Diazepam</i>	2765
10	(16) <i>Dichloralphenazone</i>	2467
11	(17) <i>Estazolam</i>	2756
12	(18) <i>Ethchlorvynol</i>	2540
13	(19) <i>Ethinamate</i>	2545
14	(20) <i>Ethyl loflazepate</i>	2758
15	(21) <i>Fludiazepam</i>	2759
16	(22) <i>Flunitrazepam</i>	2763
17	(23) <i>Flurazepam</i>	2767
18	(24) <i>Fospropofol</i>	2138
19	(25) <i>Halazepam</i>	2762
20	(26) <i>Haloxazolam</i>	2771
21	(27) <i>Ketazolam</i>	2772
22	(28) <i>Loprazolam</i>	2773
23	(29) <i>Lorazepam</i>	2885
24	(30) <i>Lormetazepam</i>	2774
25	(31) <i>Mebutamate</i>	2800
26	(32) <i>Medazepam</i>	2836
27	(33) <i>Meprobamate</i>	2820
28	(34) <i>Methohexital</i>	2264
29	(35) <i>Methylphenobarbital (mephobarbital)</i>	2250
30	(36) <i>Midazolam</i>	2884
31	(37) <i>Nimetazepam</i>	2837
32	(38) <i>Nitrazepam</i>	2834
33	(39) <i>Nordiazepam</i>	2838
34	(40) <i>Oxazepam</i>	2835
35	(41) <i>Oxazolam</i>	2839
36	(42) <i>Paraldehyde</i>	2585
37	(43) <i>Petrichloral</i>	2591
38	(44) <i>Phenobarbital</i>	2285
39	(45) <i>Pinazepam</i>	2883
40	(46) <i>Prazepam</i>	2764
41	(47) <i>Quazepam</i>	2881
42	(48) <i>Temazepam</i>	2925
43	(49) <i>Tetrazepam</i>	2886

1	(50) Triazolam.....	2887
2	(51) Zolpidem.....	2783
3	(52) Zaleplon.....	2781
4	(53) Zopiclone.....	2784
5	(54) 2-[(dimethylamino)methyl]-1-(3-methoxyphenyl)cyclohexanol, its	
6	salts, optical and geometric isomers and salts of these isomers	
7	(including tramadol).....	9752
8	(55) Alfaxalone.....	2731
9	(56) Suvorexant.....	2223
10	(c) Any material, compound, mixture, or preparation that contains	
11	any quantity of fenfluramine (1670), including its salts, isomers	
12	(whether optical, position or geometric) and salts of such isomers,	
13	whenever the existence of such salts, isomers and salts of isomers is	
14	possible. The provisions of this subsection (c) shall expire on the date	
15	fenfluramine and its salts and isomers are removed from schedule IV of	
16	the federal controlled substances act—(, 21 U.S.C. § 812; 21-code of	
17	federal regulations C.F.R. 1308.14).	
18	(d) Any material, compound, mixture or preparation that contains	
19	any quantity of lorcaserin (1625), including its salts, isomers and salts of	
20	such isomers, whenever the existence of such salts, isomers and salts of	
21	isomers is possible—(, 21 U.S.C. § 812; 21-code of federal regulations	
22	C.F.R. 1308.14).	
23	(e) Unless specifically excepted or unless listed in another schedule,	
24	any material, compound, mixture or preparation that contains any	
25	quantity of the following substances having a stimulant effect on the	
26	central nervous system, including its salts, isomers (whether optical,	
27	position or geometric) and salts of such isomers whenever the existence	
28	of such salts, isomers and salts of isomers is possible within the specific	
29	chemical designation:	
30	(1) Cathine ((+)-norpseudoephedrine).....	1230
31	(2) Diethylpropion.....	1610
32	(3) Fencamfamin.....	1760
33	(4) Fenproporex.....	1575
34	(5) Mazindol.....	1605
35	(6) Mefenorex.....	1580
36	(7) Pemoline (including organometallic complexes and chelates	
37	thereof).....	1530
38	(8) Phentermine.....	1640
39	The provisions of this subsection (e)(8) paragraph shall expire on the	
40	date phentermine and its salts and isomers are removed from schedule	
41	IV of the federal controlled substances act—(, 21 U.S.C. § 812; 21-code of	
42	federal regulations C.F.R. 1308.14).	
43	(9) Pipradrol.....	1750

- 1 (10) *SPA((-)-1-dimethylamino-1, 2-diphenylethane)*.....1635
 2 (11) *Sibutramine*.....1675
 3 (12) *Mondafinil*.....1680
 4 (f) *Unless specifically excepted or unless listed in another schedule,*
 5 *any material, compound, mixture or preparation that contains any*
 6 *quantity of the following, including salts thereof:*
 7 (1) *Pentazocine*.....9709
 8 (2) *Butorphanol (including its optical isomers)*.....9720
 9 (3) *Cannabidiol, when comprising the sole active ingredient of a drug-*
 10 *product approved by the United States food and drug administration*
 11 *Some other names for cannabidiol: 2-[(1R,6R)-3-Methyl-6-(1-*
 12 *methylethenyl)-2-cyclohexen-1-yl]-5-pentyl-1,3-benzenediol*
 13 (4) *Eluxadoline (5-[[[(2S)-2-amino-3-[4-aminocarbonyl]-2,6-*
 14 *dimethylphenyl]-1-oxopropyl]](1S)-1-(4-phenyl-1H-imidazol-2-*
 15 *yl)ethyl]amino]methyl]-2-methoxybenzoic acid)(including its*
 16 *optical isomers) and its salts, isomers, and salts of isomers*.....9725
 17 (g) *Unless specifically excepted or unless listed in another schedule,*
 18 *any material, compound, mixture or preparation containing any of the*
 19 *following narcotic drugs, or their salts calculated as the free anhydrous*
 20 *base or alkaloid, in limited quantities as set forth below:*
 21 (1) *Not more than 1 milligram of difenoxin and not less than 25*
 22 *micrograms of atropine sulfate per dosage unit*.....9167
 23 (2) *Dextropropoxyphene (alpha-(+)-4-dimethylamino-1, 2-diphenyl-3-*
 24 *methyl-2-propion-oxybutane)*.....9278
 25 (h) *Butyl nitrite and its salts, isomers, esters, ethers or their salts.*
 26 (i) *The board may except by rule and regulation any compound,*
 27 *mixture or preparation containing any depressant substance listed in*
 28 *subsection (b) from the application of all or any part of this act if the*
 29 *compound, mixture or preparation contains one or more active*
 30 *medicinal ingredients not having a depressant effect on the central*
 31 *nervous system, and if the admixtures are included therein in*
 32 *combinations, quantity, proportion or concentration that vitiate the*
 33 *potential for abuse of the substances that have a depressant effect on the*
 34 *central nervous system.*
 35 Sec. ~~2~~. 5. K.S.A. ~~2016~~ 2017 Supp. 21-5701, 21-6824~~is~~, 65-4101 and
 36 65-4111 are hereby repealed.
 37 Sec. ~~3~~. 6. This act shall take effect and be in force from and after its
 38 publication in the statute book.