

HOUSE BILL No. 2299

By Committee on Child Welfare and Foster Care

2-6

1 AN ACT concerning children and minors; relating to children in need of
2 care; directing the secretary for children and families to consider foster
3 parents as prospective adoptive parents under certain circumstances;
4 requiring the secretary to report on certain data on adoptions;
5 **providing for retroactivity; making orders granting custody for**
6 **adoption subject to the federal Indian child welfare act;** amending
7 K.S.A. 38-2203 and 38-2270 and repealing the existing ~~section~~
8 ~~sections~~.
9

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

11 **Section 1. K.S.A. 38-2203 is hereby amended to read as follows:**
12 **38-2203. (a) Proceedings concerning any child who may be a child in**
13 **need of care shall be governed by this code, except in those instances**
14 **when the court knows or has reason to know that an Indian child is**
15 **involved in the proceeding, in which case, the Indian child welfare act**
16 **of 1978, 25 U.S.C. § 1901 et seq., applies. The Indian child welfare act**
17 **may apply to: The filing to initiate a child in need of care proceeding,**
18 **K.S.A. 38-2234, and amendments thereto; ex parte custody orders,**
19 **K.S.A. 38-2242, and amendments thereto; temporary custody hearing,**
20 **K.S.A. 38-2243, and amendments thereto; adjudication, K.S.A. 38-**
21 **2247, and amendments thereto; burden of proof, K.S.A. 38-2250, and**
22 **amendments thereto; disposition, K.S.A. 38-2255, and amendments**
23 **thereto; permanency hearings, K.S.A. 38-2264, and amendments**
24 **thereto; termination of parental rights, K.S.A. 38-2267, 38-2268 and**
25 **38-2269, and amendments thereto; establishment of permanent**
26 **custodianship, K.S.A. 38-2268 and 38-2272, and amendments thereto;**
27 *orders granting custody for adoption, K.S.A. 38-2270, and amendments*
28 *thereto; the placement of a child in any foster, pre-adoptive and*
29 *adoptive home and the placement of a child in a guardianship*
30 *arrangement under article 30 of chapter 59 of the Kansas Statutes*
31 *Annotated, and amendments thereto.*

32 (b) Subject to the uniform child custody jurisdiction and
33 enforcement act, K.S.A. 2022 Supp. 23-37,101 through 23-37,405, and
34 amendments thereto, the district court shall have original jurisdiction
35 of proceedings pursuant to this code.

36 (c) The court acquires jurisdiction over a child by the filing of a

1 adoption. *When deciding who will adopt the child, the secretary or*
 2 *corporation shall be guided by the best interests of the child.*

3 (2) An order granting custody of the child to proposed adoptive
 4 parents and consenting to the adoption of the child by the proposed
 5 adoptive parents. **The court shall be guided by the best interests of the**
 6 **child.** *Any prior custody order, including, but not limited to, custody of the*
 7 *secretary or corporation, shall cease upon the court granting custody of*
 8 *the child to the proposed adoptive parents under this subsection.*

9 ~~(b) In making an order under subsection (a), the court shall give~~
 10 ~~preference, to the extent that the court finds it is in the best interests of the~~
 11 ~~child, first to granting such custody for adoption to a relative of the child~~
 12 ~~and second to granting such custody to a person with whom the child has~~
 13 ~~close emotional ties.~~**(1) When a child is placed in the custody of the**
 14 **secretary for purposes of adoption under subsection (a)(1) or when a**
 15 **parent has relinquished their rights to the secretary for adoption**
 16 **purposes, the secretary shall give preference, subject to the best interests**
 17 **of the child, according to paragraphs (2) and (3).**

18 (2) **If a child has been in the custody of the secretary for less than**
 19 **one cumulative year, the secretary shall give preference, first, to**
 20 **granting such custody for adoption to a relative of the child and**
 21 **second, to granting such custody to a person with whom the child has**
 22 **close and healthy attachments.**

23 (3) **If a child has been in the custody of the secretary for one**
 24 **cumulative year or more, the secretary shall give preference to a**
 25 **placement that maintains the child's close and healthy attachments. The**
 26 **secretary shall consider the foster parent as a prospective adoptive parent**
 27 **when:**

28 ~~(1)(A)~~ **(A)** *The child has lived more than half of the child's lifetime with*
 29 *the foster parent;*

30 ~~(2)(B)~~ **(B)** *the child has lived more than two years with the foster parent;*
 31 *or*

32 ~~(3)(C)~~ **(C)** *the secretary otherwise determines it is in the best interests of*
 33 *the child.*

34 (c) *If a foster parent considered by the secretary under subsection (b)*
 35 ~~*(1) or (b)(2) is not selected by the secretary, the foster parent may request*~~
 36 ~~*direct placement of the child by the court under subsection (a)(2) and may*~~
 37 ~~*appeal that decision to the court of appeals.*~~

38 (d) *To implement the provisions of this section, the secretary shall:*

39 (1) *Develop and enforce adoption selection policies that comply with*
 40 *subsection (b) and ensure caregiver and sibling attachments are*
 41 *appropriately considered;*

42 (2) *review policies and update to reduce time to adoption*
 43 *permanency;*