

## 2023 Kansas Statutes

**38-2201a. The Representative Gail Finney memorial foster care bill of rights; children in need of care, foster parents and kinship caregivers; notification of rights; enforced through equitable rights under the code.** (a) This section shall be known and may be cited as the Representative Gail Finney memorial foster care bill of rights.

(b) Consistent with the policy of the state expressed in K.S.A. 38-2201 et seq., and amendments thereto, in order to ensure proper care and protection of a child in need of care in the child welfare system, unless otherwise ordered by the court, such child shall have the right to:

- (1) Live in a safe, comfortable placement, in accordance with K.S.A. 38-2255, and amendments thereto:
  - (A) Where such child lives in the least restrictive environment;
  - (B) where such child shall be treated with respect, have a place to store belongings and receive healthy food, adequate clothing and appropriate personal hygiene products;
  - (C) with siblings when possible; and
  - (D) upon proper investigation and consideration in accordance with K.S.A. 38-2242, and amendments thereto, with a relative, kinship care placement or someone from such child's community with similar religious beliefs or ethnic heritage;
- (2) have visits with family;
- (3) have as few placements as possible;
- (4) have and maintain belongings by:
  - (A) Making a list of belongings to have when placed out of home;
  - (B) providing such list of belongings to such child's case manager;
  - (C) bringing such belongings when placed out of home; and
  - (D) if going on a visit or to a new placement, having belongings packed and transportable for the visit or move;
- (5) have access to all appropriate school supplies, services, tutoring, extra-curricular, cultural and personal enrichment activities;
- (6) attend school daily in accordance with K.S.A. 38-2218, and amendments thereto;
- (7) receive a high school diploma if such child has earned the standard credits in accordance with K.S.A. 38-2285, and amendments thereto;
- (8) be notified of all hearings held pursuant to the revised Kansas code for care of children, when age or developmentally appropriate;
- (9) attend, in person or virtually, all court hearings held pursuant to the revised Kansas code for care of children, when age or developmentally appropriate;
- (10) address the court regarding any proposed placement or placement change in accordance with K.S.A. 38-2262, and amendments thereto, when age or developmentally appropriate;
- (11) have a guardian ad litem represent the best interests of the child, in accordance with K.S.A. 38-2205, and amendments thereto, and contact such child regularly;
- (12) request an attorney who will represent the position of the child, if different than the determinations of the guardian ad litem, in accordance with K.S.A. 38-2205, and amendments thereto;
- (13) have privacy to send and receive unopened mail and make and receive phone calls;
- (14) have regular and private contact with and access to case managers, attorneys and advocates;
- (15) access accurate and necessary information for such child's well-being from case managers, guardians and any person who is by law liable to maintain, care for or support the child;
- (16) have as few changes in case managers as possible;
- (17) contact a case manager's supervisor if there is a conflict that cannot be resolved between such child and such child's case manager;
- (18) report a violation of this section without fear of punishment, interference, coercion or retaliation; and
- (19) when transitioning out of the child welfare system:
  - (A) Be an active participant in developing a transition plan, as defined in K.S.A. 38-

2202, and amendments thereto;

(B) have services and benefits explained;

(C) have a checking or savings account;

(D) learn to manage money, when age or developmentally appropriate;

(E) learn job skills that are age or developmentally appropriate; and

(F) be involved in life skills training and activities.

(c) Consistent with the policy of the state expressed in K.S.A. 38-2201 et seq., and amendments thereto, in order to ensure active participation of foster parents and kinship caregivers as an integral, indispensable and vital role in the state's efforts to care for children in the custody of the secretary, unless otherwise ordered by the court, such foster parents and kinship caregivers shall have the right to:

(1) Be treated by the Kansas department for children and families and other child welfare system stakeholders with dignity, respect and trust as a primary provider of care and support and a member of the professional team caring for a child in the custody of the secretary;

(2) not be discriminated in accordance with the Kansas act against discrimination, K.S.A. 44-1001, et seq., and amendments thereto, and federal law;

(3) continue with such foster parents' and kinship caregivers' own family values and beliefs with consideration given to the special needs of children who have experienced trauma and separation from their biological families, if the values and beliefs of the child and the biological family are respected and not infringed upon;

(4) make decisions concerning the child consistent with the policies, procedures and other directions of the Kansas department for children and families and within the limits of state and federal law;

(5) receive standardized preservice training by the Kansas department for children and families or the department's designee and at appropriate intervals to meet mutually assessed needs of the child, such foster parents and kinship caregivers;

(6) receive timely financial reimbursement and be notified of any costs or expenses for which such foster parents and kinship caregivers may be eligible for reimbursement in accordance with K.S.A. 38-2216, and amendments thereto;

(7) receive information regarding services and contact the Kansas department for children and families or the department's designee during regular business hours and, in the event of an emergency, by telephone after business hours;

(8) receive any information on issues concerning the child and known to the Kansas department for children and families or the department's designee that is relevant to the care of the child or that may jeopardize the health and safety of the foster family, the kinship care placement or the child or alter the manner in which care and services should be administered prior to the placement of such child;

(9) discuss known information regarding the child prior to placement and be provided additional information from the Kansas department for children and families or the department's designee as such information becomes available under state and federal law;

(10) refuse placement of a child in such foster parents' and kinship caregivers' home or request the removal of a child from such foster parents' and kinship caregivers' home after providing reasonable notice;

(11) receive any available information through the Kansas department for children and families regarding the number of times a child has been placed and the reasons for such placements, and receive the names and phone numbers of any previous placements if such placements have authorized such a release by law;

(12) receive information from the Kansas department for children and families that is relevant to the care of a child when the child is placed with such foster parents and kinship caregivers;

(13) provide input and participate in the case planning process for the child and participate in and be informed about the planning of visitation between the child and the child's biological family, recognizing that visitation with the child's biological family is important, in accordance with K.S.A. 38-2255, and amendments thereto;

(14) communicate with the child's child welfare case management provider and share and obtain relevant and appropriate information regarding such child's placement;

(15) communicate with members of the child's professional team, including, but not

limited to, such child's child welfare management provider, therapists, physicians and teachers as allowed by rules and regulations and state and federal law, for the purpose of participating in such child's case plan;

(16) be notified in advance of any court hearing or review where the case plan or permanency of the child is an issue, including periodic reviews held by the court, in accordance with the revised Kansas code for care of children;

(17) be considered as a placement option, if a child who was formerly placed with such parents or kinship caregivers is in the custody of the secretary again;

(18) continue contact and communication with a child subsequent to the child's placement from such foster parents' and kinship caregivers' home, subject to the approval of the child and the child's biological parents, if such biological parents' rights have not been terminated;

(19) direct questions to the Kansas department for children and families regarding information, concerns, policy violations and a corrective action plan relating to licensure as a family foster home;

(20) have the rights described in this section be given full consideration when the Kansas department for children and families develops and approves policies regarding placement and permanency;

(21) submit a report to the court pursuant to K.S.A. 38-2261, and amendments thereto; and

(22) request a court hearing regarding a change of placement notice pursuant to K.S.A. 38-2258, and amendments thereto, if a child has been placed with the same foster parents for six months or longer.

(d) (1) The secretary shall provide written and oral notification to foster youth, foster parents and kinship caregivers of the rights created under this section and information for filing complaints.

(2) The secretary shall make a list of the rights created under this section digitally available on the secretary's website.

(3) Each child welfare management provider shall make available physical and digital copies of a list of the rights created under this section.

(e) This section shall not be construed to create a private right of action independent of the revised Kansas code for care of children, but may be enforced through equitable relief as a part of the corresponding case under the revised Kansas code for care of children.

(f) This section shall be a part of and supplemental to the revised Kansas code for care of children.

**History:** L. 2023, ch. 70, § 2; May 4.