

SENATE BILL No. 221

By Committee on Federal and State Affairs

3-7

1 AN ACT concerning children and minors; relating to the revised Kansas
2 code for care of children; newborn infant protection act; powers and
3 duties of the secretary for children and families; amending K.S.A. 39-
4 713c and K.S.A. ~~2016~~ **2017** Supp. 38-2202, **38-2202, as amended by**
5 **section 1 of this act**, 38-2254, 38-2255, 38-2268, 38-2269, 38-2282
6 and 39-708c and repealing the existing sections; **also repealing K.S.A.**
7 **2015 Supp. 38-2202, as amended by section 23 of chapter 46 of the**
8 **2016 Session Laws of Kansas.**
9

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

11 Section 1. K.S.A. ~~2016~~ **2017** Supp. 38-2202 is hereby amended to
12 read as follows: 38-2202. As used in the revised Kansas code for care of
13 children, unless the context otherwise indicates:

14 (a) "Abandon" or "abandonment" means to forsake, desert or, without
15 making appropriate provision for substitute care, cease providing care for
16 the child.

17 (b) "Adult correction facility" means any public or private facility,
18 secure or nonsecure, which is used for the lawful custody of accused or
19 convicted adult criminal offenders.

20 (c) "Aggravated circumstances" means the abandonment, torture,
21 chronic abuse, sexual abuse or chronic, life threatening neglect of a child.

22 (d) "Child in need of care" means a person less than 18 years of age
23 at the time of filing of the petition or issuance of an ex parte protective
24 custody order pursuant to K.S.A. ~~2016~~ **2017** Supp. 38-2242, and
25 amendments thereto, who:

26 (1) Is without adequate parental care, control or subsistence and the
27 condition is not due solely to the lack of financial means of the child's
28 parents or other custodian;

29 (2) is without the care or control necessary for the child's physical,
30 mental or emotional health;

31 (3) has been physically, mentally or emotionally abused or neglected
32 or sexually abused;

33 (4) has been placed for care or adoption in violation of law;

34 (5) has been abandoned or does not have a known living parent;

35 (6) is not attending school as required by K.S.A. 72-977 or 72-1111,
36 and amendments thereto;

1 (7) except in the case of a violation of K.S.A. 41-727, K.S.A. 74-
2 8810(j), K.S.A. 79-3321(m) or (n), or K.S.A. ~~2016~~ **2017** Supp. 21-6301(a)
3 (14), and amendments thereto, or, except as provided in paragraph (12),
4 does an act which, when committed by a person under 18 years of age, is
5 prohibited by state law, city ordinance or county resolution but which is
6 not prohibited when done by an adult;

7 (8) while less than 10 years of age, commits any act which if done by
8 an adult would constitute the commission of a felony or misdemeanor as
9 defined by K.S.A. ~~2016~~ **2017** Supp. 21-5102, and amendments thereto;

10 (9) is willfully and voluntarily absent from the child's home without
11 the consent of the child's parent or other custodian;

12 (10) is willfully and voluntarily absent at least a second time from a
13 court ordered or designated placement, or a placement pursuant to court
14 order, if the absence is without the consent of the person with whom the
15 child is placed or, if the child is placed in a facility, without the consent of
16 the person in charge of such facility or such person's designee;

17 (11) has been residing in the same residence with a sibling or another
18 person under 18 years of age, who has been physically, mentally or
19 emotionally abused or neglected, or sexually abused;

20 (12) while less than 10 years of age commits the offense defined in
21 K.S.A. ~~2016~~ **2017** Supp. 21-6301(a)(14), and amendments thereto;

22 (13) has had a permanent custodian appointed and the permanent
23 custodian is no longer able or willing to serve; or

24 (14) has been subjected to an act which would constitute human
25 trafficking or aggravated human trafficking, as defined by K.S.A. ~~2016~~
26 **2017** Supp. 21-5426, and amendments thereto, or commercial sexual
27 exploitation of a child, as defined by K.S.A. ~~2016~~ **2017** Supp. 21-6422,
28 and amendments thereto, or has committed an act which, if committed by
29 an adult, would constitute selling sexual relations, as defined by K.S.A.
30 ~~2016~~ **2017** Supp. 21-6419, and amendments thereto.

31 (e) "Citizen review board" is a group of community volunteers
32 appointed by the court and whose duties are prescribed by K.S.A. ~~2016~~
33 **2017** Supp. 38-2207 and 38-2208, and amendments thereto.

34 (f) "Civil custody case" includes any case filed under chapter 23 of
35 the Kansas Statutes Annotated, and amendments thereto, the Kansas
36 family law code, article 11; of chapter 38 of the Kansas Statutes
37 Annotated, and amendments thereto, determination of parentage, article 21
38 of chapter 59 of the Kansas Statutes Annotated, and amendments thereto,
39 adoption and relinquishment act, or article 30 of chapter 59 of the Kansas
40 Statutes Annotated, and amendments thereto, guardians and conservators.

41 (g) "Court-appointed special advocate" means a responsible adult
42 other than an attorney guardian ad litem who is appointed by the court to
43 represent the best interests of a child, as provided in K.S.A. ~~2016~~ **2017**

1 Supp. 38-2206, and amendments thereto, in a proceeding pursuant to this
2 code.

3 (h) "Custody" whether temporary, protective or legal, means the
4 status created by court order or statute which vests in a custodian, whether
5 an individual or an agency, the right to physical possession of the child and
6 the right to determine placement of the child, subject to restrictions placed
7 by the court.

8 (i) "Extended out of home placement" means a child has been in the
9 custody of the secretary and placed with neither parent for 15 of the most
10 recent 22 months beginning 60 days after the date at which a child in the
11 custody of the secretary was removed from the *child's* home.

12 (j) "Educational institution" means all schools at the elementary and
13 secondary levels.

14 (k) "Educator" means any administrator, teacher or other professional
15 or paraprofessional employee of an educational institution who has
16 exposure to a pupil specified in K.S.A. 72-89b03(a), and amendments
17 thereto.

18 (l) "Harm" means physical or psychological injury or damage.

19 (m) "Interested party" means the grandparent of the child, a person
20 with whom the child has been living for a significant period of time when
21 the child in need of care petition is filed, and any person made an
22 interested party by the court pursuant to K.S.A. ~~2016~~ 2017 Supp. 38-2241,
23 and amendments thereto, or Indian tribe seeking to intervene that is not a
24 party.

25 (n) "Jail" means:

26 (1) An adult jail or lockup; or

27 (2) a facility in the same building or on the same grounds as an adult
28 jail or lockup, unless the facility meets all applicable standards and
29 licensure requirements under law and there is: (A) Total separation of the
30 juvenile and adult facility spatial areas such that there could be no
31 haphazard or accidental contact between juvenile and adult residents in the
32 respective facilities; (B) total separation in all juvenile and adult program
33 activities within the facilities, including recreation, education, counseling,
34 health care, dining, sleeping and general living activities; and (C) separate
35 juvenile and adult staff, including management, security staff and direct
36 care staff such as recreational, educational and counseling.

37 (o) "Juvenile detention facility" means any secure public or private
38 facility used for the lawful custody of accused or adjudicated juvenile
39 offenders which must not be a jail.

40 (p) "Juvenile intake and assessment worker" means a responsible
41 adult authorized to perform intake and assessment services as part of the
42 intake and assessment system established pursuant to K.S.A. 75-7023, and
43 amendments thereto.

1 (q) "Kinship care *placement*" means the placement of a child in the
2 home of ~~the child's relative or in the home of another~~ *an* adult with whom
3 the child or the child's parent already has ~~a~~ close emotional ~~attachment~~
4 *ties*.

5 (r) "Law enforcement officer" means any person who by virtue of
6 office or public employment is vested by law with a duty to maintain
7 public order or to make arrests for crimes, whether that duty extends to all
8 crimes or is limited to specific crimes.

9 (s) "Multidisciplinary team" means a group of persons, appointed by
10 the court under K.S.A. ~~2016~~ **2017** Supp. 38-2228, and amendments
11 thereto, which has knowledge of the circumstances of a child in need of
12 care.

13 (t) "Neglect" means acts or omissions by a parent, guardian or person
14 responsible for the care of a child resulting in harm to a child, or
15 presenting a likelihood of harm, and the acts or omissions are not due
16 solely to the lack of financial means of the child's parents or other
17 custodian. Neglect may include, but shall not be limited to:

18 (1) Failure to provide the child with food, clothing or shelter
19 necessary to sustain the life or health of the child;

20 (2) failure to provide adequate supervision of a child or to remove a
21 child from a situation which requires judgment or actions beyond the
22 child's level of maturity, physical condition or mental abilities and that
23 results in bodily injury or a likelihood of harm to the child; or

24 (3) failure to use resources available to treat a diagnosed medical
25 condition if such treatment will make a child substantially more
26 comfortable, reduce pain and suffering, or correct or substantially diminish
27 a crippling condition from worsening. A parent legitimately practicing
28 religious beliefs who does not provide specified medical treatment for a
29 child because of religious beliefs shall not for that reason be considered a
30 negligent parent; however, this exception shall not preclude a court from
31 entering an order pursuant to K.S.A. ~~2016~~ **2017** Supp. 38-2217(a)(2), and
32 amendments thereto.

33 (u) "Parent" when used in relation to a child or children, includes a
34 guardian and every person who is by law liable to maintain, care for or
35 support the child.

36 (v) "Party" means the state, the petitioner, the child, any parent of the
37 child and an Indian child's tribe intervening pursuant to the Indian child
38 welfare act.

39 (w) "Permanency goal" means the outcome of the permanency
40 planning process which may be reintegration, adoption, appointment of a
41 permanent custodian or another planned permanent living arrangement.

42 (x) "Permanent custodian" means a judicially approved permanent
43 guardian of a child pursuant to K.S.A. ~~2016~~ **2017** Supp. 38-2272, and

1 amendments thereto.

2 (y) "Physical, mental or emotional abuse" means the infliction of
3 physical, mental or emotional harm or the causing of a deterioration of a
4 child and may include, but shall not be limited to, maltreatment or
5 exploiting a child to the extent that the child's health or emotional well-
6 being is endangered.

7 (z) "Placement" means the designation by the individual or agency
8 having custody of where and with whom the child will live.

9 (aa) "Reasonable and prudent parenting standard" means the standard
10 characterized by careful and sensible parental decisions that maintain the
11 health, safety and best interests of a child while at the same time
12 encouraging the emotional and developmental growth of the child, that a
13 caregiver shall use when determining whether to allow a child in foster
14 care under the responsibility of the state to participate in extracurricular,
15 enrichment, cultural and social activities.

16 (bb) "Relative" means a person related by blood, marriage or
17 adoption ~~but, when referring to a relative of a child's parent, does not~~
18 ~~include the child's other parent.~~

19 (cc) "Runaway" means a child who is willfully and voluntarily absent
20 from the child's home without the consent of the child's parent or other
21 custodian.

22 (dd) "Secretary" means the secretary for children and families or the
23 secretary's designee.

24 (ee) "Secure facility" means a facility, other than a staff secure
25 facility which is operated or structured so as to ensure that all entrances
26 and exits from the facility are under the exclusive control of the staff of the
27 facility, whether or not the person being detained has freedom of
28 movement within the perimeters of the facility, or which relies on locked
29 rooms and buildings, fences or physical restraint in order to control
30 behavior of its residents. No secure facility shall be in a city or county jail.

31 (ff) "Sexual abuse" means any contact or interaction with a child in
32 which the child is being used for the sexual stimulation of the perpetrator,
33 the child or another person. Sexual abuse shall include, but is not limited to,
34 allowing, permitting or encouraging a child to:

35 (1) Be photographed, filmed or depicted in pornographic material; or

36 (2) be subjected to aggravated human trafficking, as defined in
37 K.S.A.—~~2016~~ **2017** Supp. 21-5426(b), and amendments thereto, if
38 committed in whole or in part for the purpose of the sexual gratification of
39 the offender or another, or be subjected to an act which would constitute
40 conduct proscribed by article 55 of chapter 21 of the Kansas Statutes
41 Annotated or K.S.A.—~~2016~~ **2017** Supp. 21-6419 or 21-6422, and
42 amendments thereto.

43 (gg) "Shelter facility" means any public or private facility or home,

1 other than a juvenile detention facility or staff secure facility, that may be
2 used in accordance with this code for the purpose of providing either
3 temporary placement for children in need of care prior to the issuance of a
4 dispositional order or longer term care under a dispositional order.

5 (hh) "Staff secure facility" means a facility described in K.S.A. ~~2016~~
6 **2017** Supp. 65-535, and amendments thereto: (1) That does not include
7 construction features designed to physically restrict the movements and
8 activities of juvenile residents who are placed therein; (2) that may
9 establish reasonable rules restricting entrance to and egress from the
10 facility; and (3) in which the movements and activities of individual
11 juvenile residents may, for treatment purposes, be restricted or subject to
12 control through the use of intensive staff supervision. No staff secure
13 facility shall be in a city or county jail.

14 (ii) "Transition plan" means, when used in relation to a youth in the
15 custody of the secretary, an individualized strategy for the provision of
16 medical, mental health, education, employment and housing supports as
17 needed for the adult and, if applicable, for any minor child of the adult, to
18 live independently and specifically provides for the supports and any
19 services for which an adult with a disability is eligible including, but not
20 limited to, funding for home and community based services waivers.

21 (jj) "Youth residential facility" means any home, foster home or
22 structure which provides 24-hour-a-day care for children and which is
23 licensed pursuant to article 5 of chapter 65 of the Kansas Statutes
24 Annotated, and amendments thereto.

25 ***Sec. 2. On and after July 1, 2019, K.S.A. 2017 Supp. 38-2202, as***
26 ***amended by section 1 of this act, is hereby amended to read as follows:***
27 ***38-2202. As used in the revised Kansas code for care of children, unless***
28 ***the context otherwise indicates:***

29 (a) ***"Abandon" or "abandonment" means to forsake, desert or,***
30 ***without making appropriate provision for substitute care, cease***
31 ***providing care for the child.***

32 (b) ***"Adult correction facility" means any public or private facility,***
33 ***secure or nonsecure, which is used for the lawful custody of accused or***
34 ***convicted adult criminal offenders.***

35 (c) ***"Aggravated circumstances" means the abandonment, torture,***
36 ***chronic abuse, sexual abuse or chronic, life threatening neglect of a***
37 ***child.***

38 (d) ***"Child in need of care" means a person less than 18 years of***
39 ***age at the time of filing of the petition or issuance of an ex parte***
40 ***protective custody order pursuant to K.S.A. 2017 Supp. 38-2242, and***
41 ***amendments thereto, who:***

42 (1) ***Is without adequate parental care, control or subsistence and***
43 ***the condition is not due solely to the lack of financial means of the***

1 *child's parents or other custodian;*

2 (2) *is without the care or control necessary for the child's physical,*
3 *mental or emotional health;*

4 (3) *has been physically, mentally or emotionally abused or*
5 *neglected or sexually abused;*

6 (4) *has been placed for care or adoption in violation of law;*

7 (5) *has been abandoned or does not have a known living parent;*

8 (6) *is not attending school as required by K.S.A. 72-977 or 72-1111,*
9 *and amendments thereto;*

10 (7) *except in the case of a violation of K.S.A. 41-727, K.S.A. 74-*
11 *8810(j), K.S.A. 79-3321(m) or (n), or K.S.A. 2017 Supp. 21-6301(a)(14),*
12 *and amendments thereto, or, except as provided in paragraph (12), does*
13 *an act which, when committed by a person under 18 years of age, is*
14 *prohibited by state law, city ordinance or county resolution but which is*
15 *not prohibited when done by an adult;*

16 (8) *while less than 10 years of age, commits any act which if done*
17 *by an adult would constitute the commission of a felony or misdemeanor*
18 *as defined by K.S.A. 2017 Supp. 21-5102, and amendments thereto;*

19 (9) *is willfully and voluntarily absent from the child's home without*
20 *the consent of the child's parent or other custodian;*

21 (10) *is willfully and voluntarily absent at least a second time from a*
22 *court ordered or designated placement, or a placement pursuant to court*
23 *order, if the absence is without the consent of the person with whom the*
24 *child is placed or, if the child is placed in a facility, without the consent*
25 *of the person in charge of such facility or such person's designee;*

26 (11) *has been residing in the same residence with a sibling or*
27 *another person under 18 years of age, who has been physically, mentally*
28 *or emotionally abused or neglected, or sexually abused;*

29 (12) *while less than 10 years of age commits the offense defined in*
30 *K.S.A. 2017 Supp. 21-6301(a)(14), and amendments thereto;*

31 (13) *has had a permanent custodian appointed and the permanent*
32 *custodian is no longer able or willing to serve; or*

33 (14) *has been subjected to an act which would constitute human*
34 *trafficking or aggravated human trafficking, as defined by K.S.A. 2017*
35 *Supp. 21-5426, and amendments thereto, or commercial sexual*
36 *exploitation of a child, as defined by K.S.A. 2017 Supp. 21-6422, and*
37 *amendments thereto, or has committed an act which, if committed by an*
38 *adult, would constitute selling sexual relations, as defined by K.S.A.*
39 *2017 Supp. 21-6419, and amendments thereto.*

40 (e) *"Citizen review board" is a group of community volunteers*
41 *appointed by the court and whose duties are prescribed by K.S.A. 2017*
42 *Supp. 38-2207 and 38-2208, and amendments thereto.*

43 (f) *"Civil custody case" includes any case filed under chapter 23 of*

1 *the Kansas Statutes Annotated, and amendments thereto, the Kansas*
2 *family law code, article 11 of chapter 38 of the Kansas Statutes*
3 *Annotated, and amendments thereto, determination of parentage, article*
4 *21 of chapter 59 of the Kansas Statutes Annotated, and amendments*
5 *thereto, adoption and relinquishment act, or article 30 of chapter 59 of*
6 *the Kansas Statutes Annotated, and amendments thereto, guardians and*
7 *conservators.*

8 (g) *"Court-appointed special advocate" means a responsible adult*
9 *other than an attorney guardian ad litem who is appointed by the court*
10 *to represent the best interests of a child, as provided in K.S.A. 2017*
11 *Supp. 38-2206, and amendments thereto, in a proceeding pursuant to*
12 *this code.*

13 (h) *"Custody" whether temporary, protective or legal, means the*
14 *status created by court order or statute which vests in a custodian,*
15 *whether an individual or an agency, the right to physical possession of*
16 *the child and the right to determine placement of the child, subject to*
17 *restrictions placed by the court.*

18 (i) *"Extended out of home placement" means a child has been in*
19 *the custody of the secretary and placed with neither parent for 15 of the*
20 *most recent 22 months beginning 60 days after the date at which a child*
21 *in the custody of the secretary was removed from the child's home.*

22 (j) *"Educational institution" means all schools at the elementary*
23 *and secondary levels.*

24 (k) *"Educator" means any administrator, teacher or other*
25 *professional or paraprofessional employee of an educational institution*
26 *who has exposure to a pupil specified in K.S.A. 72-89b03(a), and*
27 *amendments thereto.*

28 (l) *"Harm" means physical or psychological injury or damage.*

29 (m) *"Interested party" means the grandparent of the child, a*
30 *person with whom the child has been living for a significant period of*
31 *time when the child in need of care petition is filed, and any person*
32 *made an interested party by the court pursuant to K.S.A. 2017 Supp. 38-*
33 *2241, and amendments thereto, or Indian tribe seeking to intervene that*
34 *is not a party.*

35 (n) *"Jail" means:*

36 (1) *An adult jail or lockup; or*

37 (2) *a facility in the same building or on the same grounds as an*
38 *adult jail or lockup, unless the facility meets all applicable standards and*
39 *licensure requirements under law and there is: (A) Total separation of*
40 *the juvenile and adult facility spatial areas such that there could be no*
41 *haphazard or accidental contact between juvenile and adult residents in*
42 *the respective facilities; (B) total separation in all juvenile and adult*
43 *program activities within the facilities, including recreation, education,*

1 *counseling, health care, dining, sleeping and general living activities;*
2 *and (C) separate juvenile and adult staff, including management,*
3 *security staff and direct care staff such as recreational, educational and*
4 *counseling.*

5 *(o) "Juvenile detention facility" means any secure public or private*
6 *facility used for the lawful custody of accused or adjudicated juvenile*
7 *offenders which must not be a jail.*

8 *(p) "Juvenile intake and assessment worker" means a responsible*
9 *adult authorized to perform intake and assessment services as part of the*
10 *intake and assessment system established pursuant to K.S.A. 75-7023,*
11 *and amendments thereto.*

12 *(q) "Kinship care placement" means the placement of a child in the*
13 *home of an adult with whom the child or the child's parent already has*
14 *close emotional ties.*

15 *(r) "Law enforcement officer" means any person who by virtue of*
16 *office or public employment is vested by law with a duty to maintain*
17 *public order or to make arrests for crimes, whether that duty extends to*
18 *all crimes or is limited to specific crimes.*

19 *(s) "Multidisciplinary team" means a group of persons, appointed*
20 *by the court under K.S.A. 2017 Supp. 38-2228, and amendments thereto,*
21 *which has knowledge of the circumstances of a child in need of care.*

22 *(t) "Neglect" means acts or omissions by a parent, guardian or*
23 *person responsible for the care of a child resulting in harm to a child, or*
24 *presenting a likelihood of harm, and the acts or omissions are not due*
25 *solely to the lack of financial means of the child's parents or other*
26 *custodian. Neglect may include, but shall not be limited to:*

27 *(1) Failure to provide the child with food, clothing or shelter*
28 *necessary to sustain the life or health of the child;*

29 *(2) failure to provide adequate supervision of a child or to remove a*
30 *child from a situation which requires judgment or actions beyond the*
31 *child's level of maturity, physical condition or mental abilities and that*
32 *results in bodily injury or a likelihood of harm to the child; or*

33 *(3) failure to use resources available to treat a diagnosed medical*
34 *condition if such treatment will make a child substantially more*
35 *comfortable, reduce pain and suffering, or correct or substantially*
36 *diminish a crippling condition from worsening. A parent legitimately*
37 *practicing religious beliefs who does not provide specified medical*
38 *treatment for a child because of religious beliefs shall not for that*
39 *reason be considered a negligent parent; however, this exception shall*
40 *not preclude a court from entering an order pursuant to K.S.A. 2017*
41 *Supp. 38-2217(a)(2), and amendments thereto.*

42 *(u) "Parent" when used in relation to a child or children, includes*
43 *a guardian and every person who is by law liable to maintain, care for or*

1 *support the child.*

2 (v) *"Party" means the state, the petitioner, the child, any parent of*
3 *the child and an Indian child's tribe intervening pursuant to the Indian*
4 *child welfare act.*

5 (w) *"Permanency goal" means the outcome of the permanency*
6 *planning process which may be reintegration, adoption, appointment of*
7 *a permanent custodian or another planned permanent living*
8 *arrangement.*

9 (x) *"Permanent custodian" means a judicially approved permanent*
10 *guardian of a child pursuant to K.S.A. 2017 Supp. 38-2272, and*
11 *amendments thereto.*

12 (y) *"Physical, mental or emotional abuse" means the infliction of*
13 *physical, mental or emotional harm or the causing of a deterioration of*
14 *a child and may include, but shall not be limited to, maltreatment or*
15 *exploiting a child to the extent that the child's health or emotional well-*
16 *being is endangered.*

17 (z) *"Placement" means the designation by the individual or agency*
18 *having custody of where and with whom the child will live.*

19 (aa) *"Reasonable and prudent parenting standard" means the*
20 *standard characterized by careful and sensible parental decisions that*
21 *maintain the health, safety and best interests of a child while at the same*
22 *time encouraging the emotional and developmental growth of the child,*
23 *that a caregiver shall use when determining whether to allow a child in*
24 *foster care under the responsibility of the state to participate in*
25 *extracurricular, enrichment, cultural and social activities.*

26 (bb) *"Relative" means a person related by blood, marriage or*
27 *adoption.*

28 (cc) *"Runaway" means a child who is willfully and voluntarily*
29 *absent from the child's home without the consent of the child's parent or*
30 *other custodian.*

31 (dd) *"Secretary" means the secretary for children and families or*
32 *the secretary's designee.*

33 (ee) *"Secure facility" means a facility, other than a staff secure*
34 *facility or juvenile detention facility which is operated or structured so as*
35 *to ensure that all entrances and exits from the facility are under the*
36 *exclusive control of the staff of the facility, whether or not the person*
37 *being detained has freedom of movement within the perimeters of the*
38 *facility, or which relies on locked rooms and buildings, fences or*
39 *physical restraint in order to control behavior of its residents. No secure*
40 *facility shall be in a city or county jail.*

41 (ff) *"Sexual abuse" means any contact or interaction with a child*
42 *in which the child is being used for the sexual stimulation of the*
43 *perpetrator, the child or another person. Sexual abuse shall include, but*

1 *is not limited to, allowing, permitting or encouraging a child to:*

2 (1) *Be photographed, filmed or depicted in pornographic material;*
3 *or*

4 (2) *be subjected to aggravated human trafficking, as defined in*
5 *K.S.A. 2017 Supp. 21-5426(b), and amendments thereto, if committed in*
6 *whole or in part for the purpose of the sexual gratification of the*
7 *offender or another, or be subjected to an act which would constitute*
8 *conduct proscribed by article 55 of chapter 21 of the Kansas Statutes*
9 *Annotated or K.S.A. 2017 Supp. 21-6419 or 21-6422, and amendments*
10 *thereto.*

11 (gg) *"Shelter facility" means any public or private facility or home,*
12 *other than a juvenile detention facility or staff secure facility, that may*
13 *be used in accordance with this code for the purpose of providing either*
14 *temporary placement for children in need of care prior to the issuance of*
15 *a dispositional order or longer term care under a dispositional order.*

16 (hh) *"Staff secure facility" means a facility described in K.S.A.*
17 *2017 Supp. 65-535, and amendments thereto: (1) That does not include*
18 *construction features designed to physically restrict the movements and*
19 *activities of juvenile residents who are placed therein; (2) that may*
20 *establish reasonable rules restricting entrance to and egress from the*
21 *facility; and (3) in which the movements and activities of individual*
22 *juvenile residents may, for treatment purposes, be restricted or subject to*
23 *control through the use of intensive staff supervision. No staff secure*
24 *facility shall be in a city or county jail.*

25 (ii) *"Transition plan" means, when used in relation to a youth in*
26 *the custody of the secretary, an individualized strategy for the provision*
27 *of medical, mental health, education, employment and housing supports*
28 *as needed for the adult and, if applicable, for any minor child of the*
29 *adult, to live independently and specifically provides for the supports*
30 *and any services for which an adult with a disability is eligible*
31 *including, but not limited to, funding for home and community based*
32 *services waivers.*

33 (jj) *"Youth residential facility" means any home, foster home or*
34 *structure which provides 24-hour-a-day care for children and which is*
35 *licensed pursuant to article 5 of chapter 65 of the Kansas Statutes*
36 *Annotated, and amendments thereto.*

37 Sec.-2: 3. K.S.A.-2016 2017 Supp. 38-2254 is hereby amended to
38 read as follows: 38-2254. (a) Unless waived by the persons entitled to
39 notice, the court shall require notice of the time and place of the
40 dispositional hearing be given to the parties *and interested parties.*

41 (b) The court shall require notice and the right to be heard as to
42 proposals for living arrangements for the child, the services to be provided
43 the child and the child's family, and the proposed permanency goal for the

1 child to the following:

2 (1) The child's foster parent or parents or permanent custodian
3 providing care for the child;

4 (2) preadoptive parents for the child, if any;

5 (3) the child's grandparents at their last known addresses or if no
6 grandparent is living or if no living grandparent's address is known, to the
7 closest relative of each of the child's parents whose address is known;

8 (4) the person having custody of the child; and

9 (5) upon request, by any person having close emotional ties with the
10 child and who is deemed by the court to be essential to the deliberations
11 before the court.

12 (c) The notice required by this subsection shall be given by first class
13 mail, not less than 10 business days before the hearing.

14 (d) Individuals receiving notice pursuant to subsection (b) shall not
15 be made a party or interested party to the action solely on the basis of this
16 notice and the right to be heard. The right to be heard shall be at a time and
17 in a manner determined by the court and does not confer an entitlement to
18 appear in person at government expense.

19 (e) The provisions of this subsection shall not require additional
20 notice to any person otherwise receiving notice of the hearing pursuant to
21 K.S.A. ~~2016~~ 2017 Supp. 38-2239, and amendments thereto.

22 ~~Sec. 3-~~ 4. K.S.A. ~~2016~~ 2017 Supp. 38-2255 is hereby amended to
23 read as follows: 38-2255. (a) *Considerations*. Prior to entering an order of
24 disposition, the court shall give consideration to:

25 (1) The child's physical, mental and emotional condition;

26 (2) the child's need for assistance;

27 (3) the manner in which the parent participated in the abuse, neglect
28 or abandonment of the child;

29 (4) any relevant information from the intake and assessment process;
30 and

31 (5) the evidence received at the dispositional hearing.

32 (b) *Custody with a parent*. The court may place the child in the
33 custody of either of the child's parents subject to terms and conditions
34 which the court prescribes to assure the proper care and protection of the
35 child, including, but not limited to:

36 (1) Supervision of the child and the parent by a court services officer;

37 (2) participation by the child and the parent in available programs
38 operated by an appropriate individual or agency; and

39 (3) any special treatment or care which the child needs for the child's
40 physical, mental or emotional health and safety.

41 (c) *Removal of a child from custody of a parent*. The court shall not
42 enter the initial order removing a child from the custody of a parent
43 pursuant to this section unless the court first finds probable cause that: (1)

1 (A) The child is likely to sustain harm if not immediately removed from
2 the home;

3 (B) allowing the child to remain in home is contrary to the welfare of
4 the child; or

5 (C) immediate placement of the child is in the best interest of the
6 child; and

7 (2) reasonable efforts have been made to maintain the family unit and
8 prevent the unnecessary removal of the child from the child's home or that
9 an emergency exists which threatens the safety to the child.

10 The court shall not enter an order removing a child from the custody of
11 a parent pursuant to this section based solely on the finding that the parent
12 is homeless.

13 (d) *Custody of a child removed from the custody of a parent.* If the
14 court has made the findings required by subsection (c), the court shall
15 enter an order awarding custody to: A relative of the child or to a person
16 with whom the child has close emotional ties who shall not be required to
17 be licensed under article 5 of chapter 65 of the Kansas Statutes Annotated,
18 and amendments thereto; any other suitable person; a shelter facility; a
19 youth residential facility; a staff secure facility, notwithstanding any other
20 provision of law, if the child has been subjected to human trafficking or
21 aggravated human trafficking, as defined by K.S.A. ~~2016~~ 2017 Supp. 21-
22 5426, and amendments thereto, or commercial sexual exploitation of a
23 child, as defined by K.S.A. ~~2016~~ 2017 Supp. 21-6422, and amendments
24 thereto, or the child committed an act which, if committed by an adult,
25 would constitute a violation of K.S.A. ~~2016~~ 2017 Supp. 21-6419, and
26 amendments thereto; or, if the child is 15 years of age or younger, or 16 or
27 17 years of age if the child has no identifiable parental or family resources
28 or shows signs of physical, mental, emotional or sexual abuse, to the
29 secretary. Custody awarded under this subsection shall continue until
30 further order of the court.

31 (1) When custody is awarded to the secretary, the secretary shall
32 consider any placement recommendation by the court and notify the court
33 of the placement or proposed placement of the child within 10 days of the
34 order awarding custody. After providing the parties or interested parties
35 notice and opportunity to be heard, the court may determine whether the
36 secretary's placement or proposed placement is contrary to the welfare or
37 in the best interests of the child. In making that determination the court
38 shall consider the health and safety needs of the child and the resources
39 available to meet the needs of children in the custody of the secretary. If
40 the court determines that the placement or proposed placement is contrary
41 to the welfare or not in the best interests of the child, the court shall notify
42 the secretary, who shall then make an alternative placement.

43 (2) The custodian designated under this subsection shall notify the

1 court in writing at least 10 days prior to any planned placement with a
2 parent. The written notice shall state the basis for the custodian's belief that
3 placement with a parent is no longer contrary to the welfare or best interest
4 of the child. Upon reviewing the notice, the court may allow the custodian
5 to proceed with the planned placement or may set the date for a hearing to
6 determine if the child shall be allowed to return home. If the court sets a
7 hearing on the matter, the custodian shall not return the child home without
8 written consent of the court.

9 (3) The court may grant any person reasonable rights to visit the child
10 upon motion of the person and a finding that the visitation rights would be
11 in the best interests of the child.

12 (4) The court may enter an order restraining any alleged perpetrator
13 of physical, mental or emotional abuse or sexual abuse of the child from
14 residing in the child's home; visiting, contacting, harassing or intimidating
15 the child, other family member or witness; or attempting to visit, contact,
16 harass or intimidate the child, other family member or witness. Such
17 restraining order shall be served by personal service pursuant to ~~subsection~~
18 ~~(a)~~ of K.S.A.—~~2016~~ **2017** Supp. 38-2237(a), and amendments thereto, on
19 any alleged perpetrator to whom the order is directed.

20 (5) The court shall provide a copy of any orders entered within 10
21 days of entering the order to the custodian designated under this
22 subsection.

23 (e) *Further determinations regarding a child removed from the home.*
24 If custody has been awarded under subsection (d) to a person other than a
25 parent, a permanency plan shall be provided or prepared pursuant to
26 K.S.A.—~~2016~~ **2017** Supp. 38-2264, and amendments thereto. If a
27 permanency plan is provided at the dispositional hearing, the court may
28 determine whether reintegration is a viable alternative or, if reintegration is
29 not a viable alternative, whether the child should be placed for adoption or
30 a permanent custodian appointed. In determining whether reintegration is a
31 viable alternative, the court shall consider:

32 (1) Whether a parent has been found by a court to have committed
33 one of the following crimes or to have violated the law of another state
34 prohibiting such crimes or to have aided and abetted, attempted, conspired
35 or solicited the commission of one of these crimes: (A) Murder in the first
36 degree, K.S.A. 21-3401, prior to its repeal, or K.S.A.—~~2016~~ **2017** Supp. 21-
37 5402, and amendments thereto; (B) murder in the second degree, K.S.A.
38 21-3402, prior to its repeal, or K.S.A.—~~2016~~ **2017** Supp. 21-5403, and
39 amendments thereto; (C) capital murder, K.S.A. 21-3439, prior to its
40 repeal, or K.S.A.—~~2016~~ **2017** Supp. 21-5401, and amendments thereto; (D)
41 voluntary manslaughter, K.S.A. 21-3403, prior to its repeal, or K.S.A.
42 ~~2016~~ **2017** Supp. 21-5404, and amendments thereto; or (E) a felony battery
43 that resulted in bodily injury;

1 (2) whether a parent has subjected the child or another child to
2 aggravated circumstances;

3 (3) whether a parent has previously been found to be an unfit parent
4 in proceedings under this code or in comparable proceedings under the
5 laws of another state or the federal government;

6 (4) whether the child has been in ~~extended-out-of-home placement~~ *the*
7 *custody of the secretary and placed with neither parent for 15 of the most*
8 *recent 22 months beginning 60 days after the date on which a child in the*
9 *secretary's custody was removed from the child's home;*

10 (5) whether the parents have failed to work diligently toward
11 reintegration;

12 (6) whether the secretary has provided the family with services
13 necessary for the safe return of the child to the home; and

14 (7) whether it is reasonable to expect reintegration to occur within a
15 time frame consistent with the child's developmental needs.

16 (f) *Proceedings if reintegration is not a viable alternative.* If the court
17 determines that reintegration is not a viable alternative, proceedings to
18 terminate parental rights and permit placement of the child for adoption or
19 appointment of a permanent custodian shall be initiated unless the court
20 finds that compelling reasons have been documented in the case plan why
21 adoption or appointment of a permanent custodian would not be in the best
22 interests of the child. If compelling reasons have not been documented, the
23 county or district attorney shall file a motion within 30 days to terminate
24 parental rights or a motion to appoint a permanent custodian within 30
25 days and the court shall hold a hearing on the motion within 90 days of its
26 filing. No hearing is required when the parents voluntarily relinquish
27 parental rights or consent to the appointment of a permanent custodian.

28 (g) *Additional Orders.* In addition to or in lieu of any other order
29 authorized by this section:

30 (1) The court may order the child and the parents of any child who
31 has been adjudicated a child in need of care to attend counseling sessions
32 as the court directs. The expense of the counseling may be assessed as an
33 expense in the case. No mental health provider shall charge a greater fee
34 for court-ordered counseling than the provider would have charged to the
35 person receiving counseling if the person had requested counseling on the
36 person's own initiative.

37 (2) If the court has reason to believe that a child is before the court
38 due, in whole or in part, to the use or misuse of alcohol or a violation of
39 K.S.A. ~~2016~~ **2017** Supp. 21-5701 through 21-5717, and amendments
40 thereto, by the child, a parent of the child, or another person responsible
41 for the care of the child, the court may order the child, parent of the child
42 or other person responsible for the care of the child to submit to and
43 complete an alcohol and drug evaluation by a qualified person or agency

1 and comply with any recommendations. If the evaluation is performed by
2 a community-based alcohol and drug safety program certified pursuant to
3 K.S.A. 8-1008, and amendments thereto, the child, parent of the child or
4 other person responsible for the care of the child shall pay a fee not to
5 exceed the fee established by that statute. If the court finds that the child
6 and those legally liable for the child's support are indigent, the fee may be
7 waived. In no event shall the fee be assessed against the secretary.

8 (3) If child support has been requested and the parent or parents have
9 a duty to support the child, the court may order one or both parents to pay
10 child support and, when custody is awarded to the secretary, the court shall
11 order one or both parents to pay child support. The court shall determine,
12 for each parent separately, whether the parent is already subject to an order
13 to pay support for the child. If the parent is not presently ordered to pay
14 support for any child who is subject to the jurisdiction of the court and the
15 court has personal jurisdiction over the parent, the court shall order the
16 parent to pay child support in an amount determined under K.S.A. ~~2016~~
17 **2017** Supp. 38-2277, and amendments thereto. Except for good cause
18 shown, the court shall issue an immediate income withholding order
19 pursuant to K.S.A. ~~2016~~ **2017** Supp. 23-3101 et seq., and amendments
20 thereto, for each parent ordered to pay support under this subsection,
21 regardless of whether a payor has been identified for the parent. A parent
22 ordered to pay child support under this subsection shall be notified, at the
23 hearing or otherwise, that the child support order may be registered
24 pursuant to K.S.A. ~~2016~~ **2017** Supp. 38-2279, and amendments thereto.
25 The parent shall also be informed that, after registration, the income
26 withholding order may be served on the parent's employer without further
27 notice to the parent and the child support order may be enforced by any
28 method allowed by law. Failure to provide this notice shall not affect the
29 validity of the child support order.

30 ~~Sec. 4.~~ **5.** K.S.A. ~~2016~~ **2017** Supp. 38-2268 is hereby amended to
31 read as follows: 38-2268. (a) Prior to a hearing to consider the termination
32 of parental rights, if the child's permanency plan is either adoption or
33 appointment of a custodian, with the ~~consent approval~~ *approval* of the guardian ad
34 litem and *acceptance and approval* of the secretary, either or both parents
35 may: Relinquish parental rights to the child; *to the secretary*; consent to an
36 adoption; or consent to appointment of a permanent custodian.

37 (b) *Relinquishment of child to secretary.* (1) Any parent or parents
38 may relinquish a child to the secretary, and if the secretary accepts the
39 relinquishment in writing, the secretary shall stand in loco parentis to the
40 child and shall have and possess over the child all rights of a parent,
41 including the power to place the child for adoption and give consent
42 thereto.

43 (2) All relinquishments to the secretary shall be in writing, in

1 substantial conformity with the form for relinquishment contained in the
2 appendix of forms following K.S.A. 59-2143, and amendments thereto,
3 and shall be executed by either parent of the child.

4 (3) The relinquishment shall be in writing and shall be acknowledged
5 before a judge of a court of record or before an officer authorized by law
6 to take acknowledgments. If the relinquishment is acknowledged before a
7 judge of a court of record, it shall be the duty of the court to advise the
8 relinquishing parent of the consequences of the relinquishment.

9 (4) Except as otherwise provided, in all cases where a parent has
10 relinquished a child to the agency pursuant to K.S.A. 59-2111 through 59-
11 2143, and amendments thereto, all the rights of the parent shall be
12 terminated, including the right to receive notice in a subsequent adoption
13 proceeding involving the child. Upon such relinquishment, all the rights of
14 the parents to such child, including such parent's right to inherit from or
15 through such child, shall cease.

16 (5) If a parent has relinquished a child to the secretary based on a
17 belief that the child's other parent would relinquish the child to the
18 secretary or would be found unfit, and this does not occur, the rights of the
19 parent who has relinquished a child to the secretary shall not be
20 terminated.

21 (6) A parent's relinquishment of a child shall not terminate the right
22 of the child to inherit from or through the parent.

23 (c) *Permanent custody.* (1) A parent may consent to appointment of
24 an individual as permanent custodian and if the individual accepts the
25 consent, such individual shall stand in loco parentis to the child and shall
26 have and possess over the child all the rights of a legal guardian.

27 (2) All consents to appointment of a permanent custodian shall be in
28 writing and shall be executed by either parent of the child.

29 (3) The consent shall be in writing and shall be acknowledged before
30 a judge of a court of record or before an officer authorized by law to take
31 acknowledgments. If the consent is acknowledged before a judge of a
32 court of record, it shall be the duty of the court to advise the consenting
33 parent of the consequences of the consent.

34 (4) If a parent has consented to appointment of a permanent custodian
35 based upon a belief that the child's other parent would so consent or would
36 be found unfit, and this does not occur, the consent shall be null and void.

37 (d) *Adoption.* ~~If the child is in the custody of the secretary and the~~
38 ~~parental rights of both parents have been terminated or the parental rights~~
39 ~~of one parent have been terminated or that parent has relinquished parental~~
40 ~~rights to the secretary, the other parent may consent to the adoption of the~~
41 ~~child may be adopted by persons approved by the secretary or approved by~~
42 ~~and the court. If the child is no longer in the custody of the secretary, the~~
43 ~~court may approve adoption of the child by persons who: (1) Both parents~~

1 *consent to adopt; or (2) one parent consents to adopt, if the parental rights*
2 *of the other parent have been terminated.* The consent shall follow the
3 form contained in the appendix of forms following K.S.A. 59-2143, and
4 amendments thereto.

5 Sec. ~~5~~ 6. K.S.A. ~~2016~~ 2017 Supp. 38-2269 is hereby amended to
6 read as follows: 38-2269. (a) When the child has been adjudicated to be a
7 child in need of care, the court may terminate parental rights or appoint a
8 permanent custodian when the court finds by clear and convincing
9 evidence that the parent is unfit by reason of conduct or condition which
10 renders the parent unable to care properly for a child and the conduct or
11 condition is unlikely to change in the foreseeable future.

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

14 (1) Emotional illness, mental illness, mental deficiency or physical
15 disability of the parent, of such duration or nature as to render the parent
16 unable to care for the ongoing physical, mental and emotional needs of the
17 child;

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

20 (3) the use of intoxicating liquors or narcotic or dangerous drugs of
21 such duration or nature as to render the parent unable to care for the
22 ongoing physical, mental or emotional needs of the child;

23 (4) physical, mental or emotional abuse or neglect or sexual abuse of
24 a child;

25 (5) conviction of a felony and imprisonment;

26 (6) unexplained injury or death of another child or stepchild of the
27 parent or any child in the care of the parent at the time of injury or death;

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

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

32 (9) ~~whether the child has been in extended out of home placement,~~ as
33 a result of *the* actions or inactions attributable to the parent and one or
34 more of the factors listed in subsection (c) apply, *the child has been in the*
35 *custody of the secretary and placed with neither parent for 15 of the most*
36 *recent 22 months beginning 60 days after the date on which a child in the*
37 *secretary's custody was removed from the child's home.*

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

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

43 (2) failure to maintain regular visitation, contact or communication

1 with the child or with the custodian of the child;

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

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

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

8 (d) A finding of unfitness may be made as provided in this section if
9 the court finds that the parents have abandoned the child, the custody of
10 the child was surrendered pursuant to K.S.A. ~~2016~~ **2017** Supp. 38-2282,
11 and amendments thereto, or the child was left under such circumstances
12 that the identity of the parents is unknown and cannot be ascertained,
13 despite diligent searching, and the parents have not come forward to claim
14 the child within three months after the child is found.

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

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

23 (g) (1) If the court makes a finding of unfitness, the court shall
24 consider whether termination of parental rights as requested in the petition
25 or motion is in the best interests of the child. In making the determination,
26 the court shall give primary consideration to the physical, mental and
27 emotional health of the child. If the physical, mental or emotional needs of
28 the child would best be served by termination of parental rights, the court
29 shall so order. A termination of parental rights under the code shall not
30 terminate the right of a child to inherit from or through a parent. Upon
31 such termination all rights of the parent to such child, including, such
32 parent's right to inherit from or through such child, shall cease.

33 (2) If the court terminates parental rights, the court may authorize
34 adoption pursuant to K.S.A. ~~2016~~ **2017** Supp. 38-2270, and amendments
35 thereto, appointment of a permanent custodian pursuant to K.S.A. ~~2016~~
36 **2017** Supp. 38-2272, and amendments thereto, or continued permanency
37 planning.

38 (3) If the court does not terminate parental rights, the court may
39 authorize appointment of a permanent custodian pursuant to K.S.A. ~~2016~~
40 **2017** Supp. 38-2272, and amendments thereto, or continued permanency
41 planning.

42 (h) If a parent is convicted of an offense as provided in ~~subsection (a)~~
43 ~~(7)~~ of K.S.A. ~~2016~~ **2017** Supp. 38-2271(a)(7), and amendments thereto, or

1 is adjudicated a juvenile offender because of an act which if committed by
2 an adult would be an offense as provided in ~~subsection (a)(7) of K.S.A.~~
3 ~~2016~~ 2017 Supp. 38-2271(a)(7), and amendments thereto, and if the victim
4 was the other parent of a child, the court may disregard such convicted or
5 adjudicated parent's opinions or wishes in regard to the placement of such
6 child.

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

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

13 ~~Sec. 6:~~ 7. K.S.A. ~~2016~~ 2017 Supp. 38-2282 is hereby amended to
14 read as follows: 38-2282. (a) This section shall be known and may be cited
15 as the newborn infant protection act. *The purpose of this section is to*
16 *protect newborn children from injury and death caused by abandonment*
17 *by a parent, and to provide safe and secure alternatives to such*
18 *abandonment.*

19 (b) *As used in this section:*

20 (1) *"Non-relinquishing parent" means the biological parent of an*
21 *infant who does not leave the infant with any person listed in subsection*
22 *(c) in accordance with this section; and*

23 (2) *"relinquishing parent" means the biological parent or person*
24 *having legal custody of an infant who leaves the infant with any person*
25 *listed in subsection (c) in accordance with this section.*

26 (c) *A person purporting to be an infant's parent or other person*
27 *having lawful custody of an infant—~~which is 45~~ who is 60 days old or*
28 *younger and—~~which~~ who has not suffered bodily harm may surrender*
29 *physical custody of the infant to any employee who is on duty at a police*
30 *station, sheriff's office, law enforcement center, fire station, city or county*
31 *health department or medical care facility as defined by K.S.A. 65-425,*
32 *and amendments thereto. Such employee shall, without a court order, take*
33 *physical custody of an infant surrendered pursuant to this section. A*
34 *relinquishing parent or other person voluntarily surrendering an infant*
35 *under this subsection shall not be required to reveal personally identifiable*
36 *information, but may be offered the opportunity to provide information*
37 *concerning the infant's familial or medical history.*

38 ~~(e)(d)~~ *A person or Any employee of a facility described in subsection*
39 *(c) to whom an infant is delivered pursuant to this ~~subsection~~ section shall*
40 *not reveal the name or other personally identifiable information of the*
41 *person who delivered the infant unless there is a reasonable suspicion that*
42 *the infant has been abused or neglected, and such ~~person or such~~ facility*
43 *and its employees shall be immune from administrative, civil or criminal*

1 liability for any action taken pursuant to this subsection. *Such immunity*
2 *shall not extend to any acts or omissions, including negligent or*
3 *intentional acts or omissions, occurring after the acceptance of the infant.*

4 (e) *If an infant is delivered pursuant to this section to any facility*
5 *described in subsection (c) that is not a medical care facility, the employee*
6 *of such facility who takes physical custody of the infant shall arrange for*
7 *the immediate transportation of the infant to the nearest medical care*
8 *facility as defined by K.S.A. 65-425, and amendments thereto. The medical*
9 *care facility, its employees, agents and medical staff shall perform*
10 *treatment in accordance with the prevailing standard of care as necessary*
11 *to protect the physical health and safety of the infant and shall be immune*
12 *from administrative, civil and criminal liability for treatment performed*
13 *consistent with such standard.*

14 ~~(d)~~(f) *As soon as possible after a person an employee of any facility*
15 *described in subsection (c) takes physical custody of an infant under*
16 *without a court order pursuant to this section, such person shall notify a*
17 *local law enforcement agency that the person has taken physical custody*
18 *of an infant pursuant to this section. Upon receipt of such notice a law*
19 *enforcement officer from such law enforcement agency shall take custody*
20 *of the infant as an abandoned infant. The law enforcement agency shall*
21 *deliver the infant to a facility or person designated by the secretary*
22 *pursuant to K.S.A. 2016 2017 Supp. 38-2232, and amendments thereto.*

23 ~~(e)~~(g) *Any person, city or county or agency thereof or medical care*
24 *facility taking physical custody of an infant surrendered pursuant to this*
25 *section shall perform any act necessary to protect the physical health or*
26 *safety of the infant, and shall be immune from liability for any injury to*
27 *the infant that may result therefrom.*

28 (h) (1) *A relinquishing parent shall be immune from civil or criminal*
29 *liability for action taken pursuant to this section only if:*

30 (A) *The relinquishing parent voluntarily delivered the infant safely to*
31 *the physical custody of an employee at a facility described in subsection*
32 *(c);*

33 (B) *the infant was no more than 60 days old when delivered by the*
34 *relinquishing parent to the physical custody of an employee at a facility*
35 *described in subsection (c); and*

36 (C) *the infant was not abused or neglected by the relinquishing*
37 *parent prior to such delivery.*

38 (2) *The relinquishing parent's voluntary delivery of an infant in*
39 *accordance with this section shall constitute the parent's implied consent*
40 *to the adoption of such infant and a voluntary relinquishment of such*
41 *parent's parental rights.*

42 (i) (1) *In any termination of parental rights proceeding initiated after*
43 *the relinquishment of an infant pursuant to this section, the state shall*

1 *publish notice pursuant to chapter 60 of the Kansas Statutes Annotated,*
2 *and amendments thereto, that an infant has been relinquished, including*
3 *the sex of the infant and the date and location of such relinquishment.*
4 *Within 30 days after publication of such notice, a non-relinquishing parent*
5 *seeking to establish parental rights shall notify the court where the*
6 *termination of parental rights proceeding is filed and state such parent's*
7 *intentions regarding the infant. The court shall initiate proceedings to*
8 *establish parentage if no person notifies the court within 30 days. There*
9 *shall be an examination of the putative father registry to determine*
10 *whether attempts have previously been made to preserve parental rights to*
11 *the infant. If such attempts have been made, the state shall make*
12 *reasonable efforts to provide notice of the abandonment of the infant to*
13 *such putative father.*

14 (2) *If a relinquishing parent of an infant relinquishes custody of the*
15 *infant in accordance with this section, to preserve the parental rights of*
16 *the non-relinquishing parent, the non-relinquishing parent shall take the*
17 *steps necessary to establish parentage within 30 days after the published*
18 *notice or specific notice provided in paragraph (1).*

19 (3) *If a non-relinquishing parent fails to take the steps necessary to*
20 *establish parentage within the 30-day period specified in paragraph (2),*
21 *the non-relinquishing parent may have all of such parent's rights*
22 *terminated with respect to the child.*

23 (4) *If a non-relinquishing parent inquires at a facility described in*
24 *subsection (c) regarding an infant whose custody was relinquished*
25 *pursuant to this section, such facility shall refer the non-relinquishing*
26 *parent to the Kansas department for children and families and the court*
27 *exercising jurisdiction over the child.*

28 (f)(j) Upon request, all medical records of the infant shall be made
29 available to the Kansas department for children and families and given to
30 the person awarded custody of such infant. The medical facility providing
31 such records shall be immune from liability for such records release.

32 **Sec. 7. 8. K.S.A. ~~2016~~ 2017 Supp. 39-708c is hereby amended to read**
33 **as follows: 39-708c. (a) The secretary for children and families shall**
34 **develop state plans, as provided under the federal social security act,**
35 **whereby the state cooperates with the federal government in its program of**
36 **assisting the states financially in furnishing assistance and services to**
37 **eligible individuals. The secretary shall undertake to cooperate with the**
38 **federal government on any other federal program providing federal**
39 **financial assistance and services in the field of social welfare not**
40 **inconsistent with this act. The secretary is not required to develop a state**
41 **plan for participation or cooperation in all federal social security act**
42 **programs or other federal programs that are available. The secretary shall**
43 **also have the power, but is not required, to develop a state plan in regard to**

1 assistance and services in which the federal government does not
2 participate.

3 (b) The secretary shall have the power and duty to determine the
4 general policies relating to all forms of social welfare which are
5 administered or supervised by the secretary and to adopt the rules and
6 regulations therefor.

7 (c) The secretary shall hire, in accordance with the provisions of the
8 Kansas civil service act, such employees as may be needed, in the
9 judgment of the secretary, to carry out the provisions of this act. The
10 secretary shall advise the governor and the legislature on all social welfare
11 matters covered in this act.

12 (d) The secretary shall establish and maintain intake offices
13 throughout the state. The secretary may establish and create area offices to
14 coordinate and supervise the administration of the intake offices located
15 within the area. The number and location of intake offices and area offices
16 shall be within the discretion of the secretary. Each intake office shall be
17 open at least 12 hours of each working week on a regularly scheduled
18 basis. The secretary shall supervise all social welfare activities of the
19 intake offices and area offices. The secretary may lease office or business
20 space, but no lease or rental contract shall be for a period to exceed 10
21 years. A person desiring public assistance, or if the person is incapable or
22 incapacitated, a relative, friend, personal representative or conservator of
23 the person shall make application at the intake office. When it is necessary,
24 employees may take applications elsewhere at any time. The applications
25 shall contain a statement of the amount of property, both personal and real,
26 in which the applicant has an interest and of all income which the
27 applicant may have at the time of the filing of the application and such
28 other information as may be required by the secretary. When a husband
29 and wife are living together the combined income or resources of both
30 shall be considered in determining the eligibility of either or both for
31 assistance unless otherwise prohibited by law. The form of application, the
32 procedure for the determination of eligibility and the amount and kind of
33 assistance or service shall be determined by the secretary.

34 (e) The secretary shall provide special inservice training for
35 employees of the secretary and may provide the training as a part of the
36 job or at accredited educational institutions.

37 (f) The secretary shall establish an adequate system of financial
38 records. The secretary shall make annual reports to the governor and shall
39 make any reports required by federal agencies.

40 (g) The secretary shall sponsor, operate or supervise community work
41 experience programs whereby recipients of assistance shall work out a part
42 or all of their assistance and conserve work skills and develop new skills.
43 The compensation credited to recipients for the programs shall be based

1 upon an hourly rate equal to or in excess of the federal minimum wage
2 hourly rate. The programs shall be administered by the secretary. In the
3 programs, the secretary shall provide protection to the recipient under the
4 workmen's compensation act or shall provide comparable protection and
5 may enter into cooperative arrangements with other public officials and
6 agencies or with private not-for-profit corporations providing assistance to
7 needy persons in developing, subject to the approval of the secretary, the
8 programs under this section.

9 (h) The secretary may receive, have custody of, protect, administer,
10 disburse, dispose of and account for federal or private commodities,
11 equipment, supplies and any kind of property, including food stamps or
12 coupons, which are given, granted, loaned or advanced to the state of
13 Kansas for social welfare works, and for any other purposes provided for
14 by federal laws or rules and regulations or by private devise, grant or loan,
15 or from corporations organized to act as federal agencies, and to do all
16 things and acts which are necessary or required to perform the functions
17 and carry out the provisions of federal laws, rules and regulations under
18 which such commodities, equipment, supplies and other property may be
19 given, granted, loaned or advanced to the state of Kansas, and to act as an
20 agent of the federal government when designated as an agent, and do and
21 perform all things and acts that may be required by the federal laws or
22 rules and regulations not inconsistent with the act.

23 (i) The secretary may assist other departments, agencies and
24 institutions of the state and federal government and of other states under
25 interstate agreements, when so requested, by performing services in
26 conformity with the purpose of this act.

27 (j) The secretary shall have authority to lease real and personal
28 property whenever the property is not available through the state or a
29 political subdivision of the state, for carrying on the functions of the
30 secretary.

31 (k) All contracts shall be made in the name of the secretary for
32 children and families and in that name the secretary may sue and be sued
33 on such contracts. The grant of authority under this subsection shall not be
34 construed to be a waiver of any rights retained by the state under the 11th
35 amendment to the United States constitution and shall be subject to and
36 shall not supersede the provisions of any appropriations act of this state.

37 (l) All moneys and property of any kind whatsoever received from
38 the Kansas emergency relief committee or from any other state department
39 or political subdivision of the state shall be used by the secretary in the
40 administration and promotion of social welfare in the state of Kansas. The
41 property may be given, loaned or placed at the disposal of any county, city
42 or state agency engaged in the promotion of social welfare.

43 (m) The secretary shall prepare annually, at the time and in the form

1 directed by the governor, a budget covering the estimated receipts and
2 expenditures of the secretary for the ensuing year.

3 (n) The secretary shall have authority to make grants of funds,
4 commodities or other needed property to local units of government under
5 rules and regulations adopted by the secretary for the promotion of social
6 welfare in local units of government.

7 (o) The secretary shall have authority to sell any property in the
8 secretary's possession received from any source whatsoever for which
9 there is no need or use in the administration or the promotion of social
10 welfare in the state of Kansas.

11 (p) The secretary shall adopt a seal.

12 (q) The secretary shall initiate or cooperate with other agencies in
13 developing programs for the prevention of blindness, the restoration of
14 eyesight and the vocational rehabilitation of blind persons and shall
15 establish a division of services for the blind. The secretary may initiate or
16 cooperate with other agencies in developing programs for the prevention
17 and rehabilitation of other handicapped persons.

18 (r) The secretary shall develop a children and youth service program
19 and shall administer or supervise program activities including the care and
20 protection of ~~children who are deprived, defective, wayward, miscreant,~~
21 ~~delinquent or children in need of care, as defined in K.S.A.—2016~~ **2017**
22 *Supp. 38-2202, and amendments thereto.* The secretary shall cooperate
23 with the federal government through its appropriate agency or
24 instrumentality in establishing, extending and strengthening such services
25 and undertake other services to children authorized by law. Nothing in this
26 act shall be construed as authorizing any state official, agent or
27 representative, in carrying out any of the provisions of this act, to take
28 charge of any child over the objection of either of the parents of such child
29 or of the person standing in loco parentis to such child except pursuant to a
30 proper court order.

31 (s) The secretary shall develop plans financed by federal funds or
32 state funds or both for providing medical care for needy persons. The
33 secretary, in developing the plan, may enter into an agreement with an
34 agent or intermediary for the purpose of performing certain functions,
35 including the making of medical payment reviews, determining the
36 amount due the medical vendors from the state in accordance with
37 standards set by the secretary, preparing and certifying to the secretary lists
38 of medical vendors and the amounts due them and other related functions
39 determined by the secretary. The secretary may also provide medical,
40 remedial, preventive or rehabilitative care and services for needy persons
41 by the payment of premiums to the federal social security system for the
42 purchase of supplemental medical insurance benefits as provided by the
43 federal social security act and amendments thereto. Medicaid recipients

1 who were residents of a nursing facility on September 1, 1991, and who
2 subsequently lost eligibility in the period September 1, 1991, through June
3 30, 1992, due to an increase in income shall be considered to meet the
4 300% income cap eligibility test.

5 (t) The secretary shall carry on research and compile statistics relative
6 to the entire social welfare program throughout the state, ~~including all~~
7 ~~phases of dependency, defectiveness, delinquency and related problems;~~
8 develop plans in cooperation with other public and private agencies for the
9 prevention as well as treatment of conditions giving rise to social welfare
10 problems.

11 (u) The secretary may receive grants, gifts, bequests, money or aid of
12 any character whatsoever, for state welfare work. All moneys coming into
13 the hands of the secretary shall be deposited in the state social welfare
14 fund provided for in this act.

15 (v) The secretary may enter into agreements with other states or the
16 welfare department of other states, in regard to the manner of determining
17 the state of residence in disputed cases, the manner of returning persons to
18 the place of residence and the bearing or sharing of the costs.

19 (w) The secretary shall perform any other duties and services
20 necessary to carry out the purposes of this act and promote social welfare
21 in the state of Kansas, not inconsistent with the state law.

22 (x) The secretary shall establish payment schedules for each group of
23 health care providers. Any payment schedules which are a part of the state
24 medicaid plan shall conform to state and federal law. The secretary shall
25 not be required to make any payments under the state medicaid plan which
26 do not meet requirements for state and federal financial participation.

27 (1) The secretary shall consider budgetary constraints as a factor in
28 establishing payment schedules so long as the result complies with state
29 and federal law.

30 (2) The secretary shall establish payment schedules for providers of
31 hospital and adult care home services under the medicaid plan that are
32 reasonable and adequate to meet the costs which must be incurred by
33 efficiently and economically operated facilities in order to provide care
34 and services in conformity with applicable state and federal laws,
35 regulations, and quality and safety standards. The secretary shall not be
36 required to establish rates for any such facility that are in excess of the
37 minimum necessary to efficiently and economically meet those standards
38 regardless of any excess costs incurred by any such facility.

39 (y) The secretary shall maintain a system of centralized payment for
40 all welfare expenditures.

41 ~~Sec. 8.~~ **9.** K.S.A. 39-713c is hereby amended to read as follows: 39-
42 713c. The secretary shall find suitable homes for children who are
43 ~~deprived, wayward, misereant, delinquent or children in need of care, as~~

1 *defined in K.S.A.—2016 2017 Supp. 38-2202, and amendments thereto,*
2 referred to the secretary by the district court, and place and supervise the
3 children in such homes. This shall not prevent the use of licensed private
4 child-placing agencies by the secretary or district court when desired.

5 ~~Sec. 9.~~ **10.** K.S.A. 39-713c and K.S.A.—2016 2017 Supp. 38-2202, 38-
6 2254, 38-2255, 38-2268, 38-2269, 38-2282 and 39-708c are hereby
7 repealed.

8 **Sec. 11.** *On and after July 1, 2019, K.S.A. 2015 Supp. 38-2202, as*
9 *amended by section 23 of chapter 46 of the 2016 Session Laws of*
10 *Kansas, and K.S.A. 2017 Supp. 38-2202, as amended by section 1 of this*
11 *act, are hereby repealed.*

12 ~~Sec. 10.~~ **12.** This act shall take effect and be in force from and after
13 its publication in the statute book.