

Substitute for HOUSE BILL No. 2189

By Committee on Child Welfare and Foster Care

3-25

1 AN ACT concerning children and minors; relating to children in the
2 custody of the secretary for children and families; providing for an
3 extension or reentry of custody for persons up to 21 years of age;
4 allowing the secretary to provide reentry services to certain young
5 adults; setting an expiration date for the programs thereof; amending
6 K.S.A. 2023 Supp. 38-2202 and 38-2203 and repealing the existing
7 sections; also repealing K.S.A. 2023 Supp. 38-2202a and 38-2203a.
8

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

10 New Section 1. (a) Upon a written request of an eligible young adult,
11 the secretary for children and families shall provide reentry services to
12 such young adult.

13 (b) Young adults are eligible for reentry services if such young adult:

14 (1) Has reached 18 years of age but is not yet 21 years of age;

15 (2) was previously in custody of the secretary and in an out-of-home
16 placement on or after such young adult had reached 16 years of age; and

17 (3) was in an out-of-home placement that was not with such young
18 adult's parents or at a juvenile detention facility or a juvenile correctional
19 facility.

20 (c) Such young adult receiving reentry services shall participate in
21 self-sufficiency planning, attend school or work and make efforts towards
22 independence as determined by the secretary.

23 (d) Whichever of the following occurs first, provision of reentry
24 services shall terminate when:

25 (1) The secretary determines that the young adult is not complying
26 with subsection (c);

27 (2) the young adult voluntarily requests termination of services; or

28 (3) the young adult reaches 21 years of age.

29 (e) The provisions of this section shall expire on June 30, 2029.

30 Sec. 2. K.S.A. 2023 Supp. 38-2202 is hereby amended to read as
31 follows: 38-2202. As used in the revised Kansas code for care of children,
32 unless the context otherwise indicates:

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

36 (b) "Adult correction facility" means any public or private facility,

1 secure or nonsecure, that is used for the lawful custody of accused or
2 convicted adult criminal offenders.

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

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

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

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

13 (3) has been physically, mentally or emotionally abused or neglected
14 or sexually abused;

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

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

17 (6) is not attending school as required by K.S.A. 72-3421 or 72-3120,
18 and amendments thereto;

19 (7) except in the case of a violation of K.S.A. 41-727, 74-8810(j), 79-
20 3321(m) or (n), or K.S.A. 21-6301(a)(14), and amendments thereto, or,
21 except as provided in paragraph (12), does an act which, when committed
22 by a person under 18 years of age, is prohibited by state law, city
23 ordinance or county resolution, but which is not prohibited when done by
24 an adult;

25 (8) while less than 10 years of age, commits any act that if done by an
26 adult would constitute the commission of a felony or misdemeanor as
27 defined by K.S.A. 21-5102, and amendments thereto;

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

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

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

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

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

42 (14) has been subjected to an act that would constitute human
43 trafficking or aggravated human trafficking, as defined by K.S.A. 21-5426,

1 and amendments thereto, or commercial sexual exploitation of a child, as
2 defined by K.S.A. 21-6422, and amendments thereto, or has committed an
3 act which, if committed by an adult, would constitute selling sexual
4 relations, as defined by K.S.A. 21-6419, and amendments thereto.

5 (e) "Child abuse medical resource center" means a medical institution
6 affiliated with an accredited children's hospital or a recognized institution
7 of higher education that has an accredited medical school program with
8 board-certified child abuse pediatricians who provide training, support,
9 mentoring and peer review to CARE providers on CARE exams.

10 (f) "Child abuse review and evaluation exam" or "CARE exam"
11 means a forensic medical evaluation of a child alleged to be a victim of
12 abuse or neglect conducted by a CARE provider.

13 (g) "Child abuse review and evaluation network" or "CARE network"
14 means a network of CARE providers, child abuse medical resource centers
15 and any medical provider associated with a child advocacy center that has
16 the ability to conduct a CARE exam that collaborate to improve services
17 provided to a child alleged to be a victim of abuse or neglect.

18 (h) "Child abuse review and evaluation provider" or "CARE
19 provider" means a person licensed to practice medicine and surgery,
20 advanced practice registered nurse or licensed physician assistant who
21 performs CARE exams of and provides medical diagnosis and treatment to
22 a child alleged to be a victim of abuse or neglect and who receives:

23 (1) Kansas-based initial intensive training regarding child
24 maltreatment from the CARE network;

25 (2) continuous trainings on child maltreatment from the CARE
26 network; and

27 (3) peer review and new provider mentoring regarding medical
28 evaluations from a child abuse medical resource center.

29 (i) "Child abuse review and evaluation referral" or "CARE referral"
30 means a brief written review of allegations of physical abuse, emotional
31 abuse, medical neglect or physical neglect submitted by the secretary or
32 law enforcement agency to a child abuse medical resource center for a
33 recommendation of such child's need for medical care that may include a
34 CARE exam.

35 (j) "Citizen review board" is a group of community volunteers
36 appointed by the court and whose duties are prescribed by K.S.A. 38-2207
37 and 38-2208, and amendments thereto.

38 (k) "Civil custody case" includes any case filed under chapter 23 of
39 the Kansas Statutes Annotated, and amendments thereto, the Kansas
40 family law code, article 11 of chapter 38 of the Kansas Statutes Annotated,
41 and amendments thereto, determination of parentage, article 21 of chapter
42 59 of the Kansas Statutes Annotated, and amendments thereto, adoption
43 and relinquishment act, or article 30 of chapter 59 of the Kansas Statutes

1 Annotated, and amendments thereto, guardians and conservators.

2 (l) "Court-appointed special advocate" means a responsible adult
3 other than an attorney guardian ad litem who is appointed by the court to
4 represent the best interests of a child, as provided in K.S.A. 38-2206, and
5 amendments thereto, in a proceeding pursuant to this code.

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

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

15 (o) "Educational institution" means all schools at the elementary and
16 secondary levels.

17 (p) "Educator" means any administrator, teacher or other professional
18 or paraprofessional employee of an educational institution who has
19 exposure to a pupil specified in K.S.A. 72-6143(a), and amendments
20 thereto.

21 (q) "Harm" means physical or psychological injury or damage.

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

27 (s) "Jail" means:

28 (1) An adult jail or lockup; or

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

39 (t) "Juvenile detention facility" means any secure public or private
40 facility used for the lawful custody of accused or adjudicated juvenile
41 offenders that must not be a jail.

42 (u) "Juvenile intake and assessment worker" means a responsible
43 adult authorized to perform intake and assessment services as part of the

1 intake and assessment system established pursuant to K.S.A. 75-7023, and
2 amendments thereto.

3 (v) "Kinship care placement" means the placement of a child in the
4 home of an adult with whom the child or the child's parent already has
5 close emotional ties.

6 (w) "Kinship caregiver" means an adult who the secretary has
7 selected for placement for a child in need of care with whom the child or
8 the child's parent already has close emotional ties.

9 (x) "Law enforcement officer" means any person who by virtue of
10 office or public employment is vested by law with a duty to maintain
11 public order or to make arrests for crimes, whether that duty extends to all
12 crimes or is limited to specific crimes.

13 (y) "Multidisciplinary team" means a group of persons, appointed by
14 the court under K.S.A. 38-2228, and amendments thereto, that has
15 knowledge of the circumstances of a child in need of care.

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

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

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

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

36 (aa) *"Non-minor dependent" means an individual who is at least 18*
37 *years of age but is less than 21 years of age and, except for the age*
38 *requirement, meets the definition of a child in need of care in subsection*
39 *(d).*

40 (bb) "Parent" when used in relation to a child or children, includes a
41 guardian and every person who is by law liable to maintain, care for or
42 support the child.

43 (~~bb~~)(cc) "Party" means the state, the petitioner, the child, any parent

1 of the child and an Indian child's tribe intervening pursuant to the Indian
2 child welfare act.

3 ~~(ee)~~(dd) "Permanency goal" means the outcome of the permanency
4 planning process, which may be reintegration, adoption, appointment of a
5 permanent custodian or another planned permanent living arrangement.

6 ~~(dd)~~(ee) "Permanent custodian" means a judicially approved
7 permanent guardian of a child pursuant to K.S.A. 38-2272, and
8 amendments thereto.

9 ~~(ee)~~(ff) "Physical, mental or emotional abuse" means the infliction of
10 physical, mental or emotional harm or the causing of a deterioration of a
11 child and may include, but shall not be limited to, maltreatment or
12 exploiting a child to the extent that the child's health or emotional well-
13 being is endangered.

14 ~~(ff)~~(gg) "Placement" means the designation by the individual or
15 agency having custody of where and with whom the child will live.

16 ~~(gg)~~(hh) "Qualified residential treatment program" means a program
17 designated by the secretary for children and families as a qualified
18 residential treatment program pursuant to federal law.

19 ~~(hh)~~(ii) "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 ~~(ii)~~(jj) "Relative" means a person related by blood, marriage or
27 adoption.

28 ~~(jj)~~(kk) "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 ~~(kk)~~(ll) "Secretary" means the secretary for children and families or
32 the secretary's designee.

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

41 ~~(mm)~~(nn) "Sexual abuse" means any contact or interaction with a
42 child 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 is

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

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

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

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

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

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

31 ~~(qq)~~(rr) "Youth residential facility" means any home, foster home or
32 structure that provides 24-hour-a-day care for children and that is licensed
33 pursuant to article 5 of chapter 65 of the Kansas Statutes Annotated, and
34 amendments thereto.

35 (ss) "*Behavioral health crisis*" means behavioral and conduct issues
36 that impact the safety or health of a child, members of the child's
37 household or family or members of the community, including, but not
38 limited to, non-life threatening mental health and substance abuse
39 concerns.

40 Sec. 3. K.S.A. 2023 Supp. 38-2203 is hereby amended to read as
41 follows: 38-2203. (a) Proceedings concerning any child who may be a
42 child in need of care shall be governed by this code, except in those
43 instances when the court knows or has reason to know that an Indian child

1 is involved in the proceeding, in which case, the Indian child welfare act of
2 1978, 25 U.S.C. § 1901 et seq., applies. The Indian child welfare act may
3 apply to: The filing to initiate a child in need of care proceeding, K.S.A.
4 38-2234, and amendments thereto; ex parte custody orders, K.S.A. 38-
5 2242, and amendments thereto; temporary custody hearing, K.S.A. 38-
6 2243, and amendments thereto; adjudication, K.S.A. 38-2247, and
7 amendments thereto; burden of proof, K.S.A. 38-2250, and amendments
8 thereto; disposition, K.S.A. 38-2255, and amendments thereto;
9 permanency hearings, K.S.A. 38-2264, and amendments thereto;
10 termination of parental rights, K.S.A. 38-2267, 38-2268 and 38-2269, and
11 amendments thereto; establishment of permanent custodianship, K.S.A.
12 38-2268 and 38-2272, and amendments thereto; the newborn infant
13 protection act, K.S.A. 38-2282, and amendments thereto; the
14 Representative Gail Finney memorial foster care bill of rights, K.S.A.
15 2023 Supp. 38-2201a, and amendments thereto; the placement of a child in
16 any foster, pre-adoptive and adoptive home and the placement of a child in
17 a guardianship arrangement under article 30 of chapter 59 of the Kansas
18 Statutes Annotated, and amendments thereto.

19 (b) Subject to the uniform child custody jurisdiction and enforcement
20 act, K.S.A. 23-37,101 through 23-37,405, and amendments thereto, the
21 district court shall have original jurisdiction of proceedings pursuant to
22 this code.

23 (c) (1) The court acquires jurisdiction over a child by the filing of a
24 petition pursuant to this code or upon issuance of an ex parte order
25 pursuant to K.S.A. 38-2242, and amendments thereto. *Except as provided*
26 *in paragraphs (3) and (4)*, when the court acquires jurisdiction over a child
27 in need of care, jurisdiction may continue until the child has:

28 (1)(A) Become 18 years of age, or until June 1 of the school year
29 during which the child became 18 years of age if the child is still attending
30 high school unless there is no court approved transition plan, in which
31 event jurisdiction may continue until a transition plan is approved by the
32 court or until the child reaches ~~the age of~~ 21 years of age;

33 (2)(B) been adopted; or

34 (3)(C) been discharged by the court.

35 (2) Any child 18 years of age or over may request, in writing to the
36 court, that the jurisdiction of the court cease. The court shall give notice of
37 the request to all parties and interested parties and 30 days after receipt of
38 the request, jurisdiction will cease.

39 (3) *Upon written request by the child to the court, the court shall not*
40 *issue an order terminating jurisdiction over such child:*

41 (A) *Before June 1 of the school year during which the child becomes*
42 *18 years of age, if the child is in an out-of-home placement, is still*
43 *attending high school and has not completed a high school education; or*

1 (B) *who is a non-minor dependent in the custody of the secretary, in*
2 *out-of-home placement and transitioning to adulthood.*

3 (4) (A) *Such non-minor dependent shall participate in case planning,*
4 *attend school or work and make efforts toward independence as*
5 *determined by the secretary and receive independent living services from*
6 *the independent living program administered by the secretary. If such non-*
7 *minor dependent fails to comply with the provisions of this paragraph, the*
8 *secretary may petition the court to terminate jurisdiction.*

9 (B) *The court shall not have jurisdiction over such non-minor*
10 *dependent after such non-minor dependent either has been absent from*
11 *placement for 30 calendar days or attains 21 years of age.*

12 (d) When it is no longer appropriate for the court to exercise
13 jurisdiction over a child, the court, upon its own motion or the motion of a
14 party or interested party at a hearing or upon agreement of all parties or
15 interested parties, shall enter an order discharging the child. ~~Except upon~~
16 ~~request of the child pursuant to subsection (c), the court shall not enter an~~
17 ~~order discharging a child until June 1 of the school year during which the~~
18 ~~child becomes 18 years of age if the child is in an out-of-home placement,~~
19 ~~is still attending high school and has not completed the child's high school~~
20 ~~education.~~

21 (e) When a petition is filed under this code, a person who is alleged to
22 be under 18 years of age shall be presumed to be under that age for the
23 purposes of this code, unless the contrary is proved.

24 (f) A court's order issued in a proceeding pursuant to this code, shall
25 take precedence over such orders in a civil custody case, a proceeding
26 under article 31 of chapter 60 of the Kansas Statutes Annotated, and
27 amendments thereto, protection from abuse act, or a comparable case in
28 another jurisdiction, except as provided by K.S.A. 23-37,101 through 23-
29 37,405, and amendments thereto, uniform child custody jurisdiction and
30 enforcement act.

31 (g) *If a child is eligible to receive services from the Kansas*
32 *department for children and families, the department of corrections or the*
33 *judicial branch, such agencies shall collaborate to provide such services.*
34 *Nothing in this subsection shall preclude the child from accessing services*
35 *provided by the Kansas department for children and families, the*
36 *department of corrections, the judicial branch or any other state agency if*
37 *the child is otherwise eligible for the services.*

38 (h) *The provisions of subsections (c)(3)(B) and (c)(4) shall expire on*
39 *June 30, 2029.*

40 Sec. 4. K.S.A. 2023 Supp. 38-2202, 38-2202a, 38-2203 and 38-2203a
41 are hereby repealed.

42 Sec. 5. This act shall take effect and be in force from and after its
43 publication in the statute book.