

Substitute for HOUSE BILL No. 2132

By Committee on Child Welfare and Foster Care

3-7

1 AN ACT concerning children and minors; relating to the revised Kansas
2 code for care of children; modifying the definition of neglect;
3 prohibiting the removal of a child from such child's home due solely to
4 a lack of financial resources; determining when a law enforcement
5 officer may or shall take a child into custody; requiring the secretary
6 for children and families to provide means for a law enforcement
7 officer to refer potential cases of abuse or neglect and that the secretary
8 provide a response to such referrals within 24 hours; requiring that
9 facts of serious harm demonstrate more than one fact of certain listed
10 facts; allowing the court to consider the participation of parents in
11 services when determining whether a child shall be removed from such
12 child's home; amending K.S.A. 2024 Supp. 38-2202, 38-2231, 38-2234
13 and 38-2243 and repealing the existing sections.
14

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

16 Section 1. K.S.A. 2024 Supp. 38-2202 is hereby amended to read as
17 follows: 38-2202. As used in the revised Kansas code for care of children,
18 unless the context otherwise indicates:

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

22 (b) "Adult correction facility" means any public or private facility,
23 secure or nonsecure, that is used for the lawful custody of accused or
24 convicted adult criminal offenders.

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

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

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

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

35 (3) has been physically, mentally or emotionally abused or neglected
36 or sexually abused;

- 1 (4) has been placed for care or adoption in violation of law;
- 2 (5) has been abandoned or does not have a known living parent;
- 3 (6) is not attending school as required by K.S.A. 72-3421 or 72-3120,
- 4 and amendments thereto;
- 5 (7) except in the case of a violation of K.S.A. 41-727, 74-8810(j), 79-
- 6 3321(m) or (n), or ~~K.S.A. 21-6301(a)(14)~~, and amendments thereto, or,
- 7 except as provided in paragraph (12), does an act which, when committed
- 8 by a person under 18 years of age, is prohibited by state law, city
- 9 ordinance or county resolution, but which is not prohibited when done by
- 10 an adult;
- 11 (8) while less than 10 years of age, commits any act that if done by an
- 12 adult would constitute the commission of a felony or misdemeanor as
- 13 defined by K.S.A. 21-5102, and amendments thereto;
- 14 (9) is willfully and voluntarily absent from the child's home without
- 15 the consent of the child's parent or other custodian;
- 16 (10) is willfully and voluntarily absent at least a second time from a
- 17 court ordered or designated placement, or a placement pursuant to court
- 18 order, if the absence is without the consent of the person with whom the
- 19 child is placed or, if the child is placed in a facility, without the consent of
- 20 the person in charge of such facility or such person's designee;
- 21 (11) has been residing in the same residence with a sibling or another
- 22 person under 18 years of age, who has been physically, mentally or
- 23 emotionally abused or neglected, or sexually abused;
- 24 (12) while less than 10 years of age commits the offense defined in
- 25 K.S.A. 21-6301(a)(14), and amendments thereto;
- 26 (13) has had a permanent custodian appointed and the permanent
- 27 custodian is no longer able or willing to serve; or
- 28 (14) has been subjected to an act that would constitute human
- 29 trafficking or aggravated human trafficking, as defined by K.S.A. 21-5426,
- 30 and amendments thereto, or commercial sexual exploitation of a child, as
- 31 defined by K.S.A. 21-6422, and amendments thereto, or has committed an
- 32 act which, if committed by an adult, would constitute selling sexual
- 33 relations, as defined by K.S.A. 21-6419, and amendments thereto.
- 34 (e) "Child abuse medical resource center" means a medical institution
- 35 affiliated with an accredited children's hospital or a recognized institution
- 36 of higher education that has an accredited medical school program with
- 37 board-certified child abuse pediatricians who provide training, support,
- 38 mentoring and peer review to CARE providers on CARE exams.
- 39 (f) "Child abuse review and evaluation exam" or "CARE exam"
- 40 means a forensic medical evaluation of a child alleged to be a victim of
- 41 abuse or neglect conducted by a CARE provider.
- 42 (g) "Child abuse review and evaluation network" or "CARE network"
- 43 means a network of CARE providers, child abuse medical resource centers

1 and any medical provider associated with a child advocacy center that has
2 the ability to conduct a CARE exam that collaborate to improve services
3 provided to a child alleged to be a victim of abuse or neglect.

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

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

11 (2) continuous trainings on child maltreatment from the CARE
12 network; and

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

15 (i) "Child abuse review and evaluation referral" or "CARE referral"
16 means a brief written review of allegations of physical abuse, emotional
17 abuse, medical neglect or physical neglect submitted by the secretary or
18 law enforcement agency to a child abuse medical resource center for a
19 recommendation of such child's need for medical care that may include a
20 CARE exam.

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

24 (k) "Civil custody case" includes any case filed under chapter 23 of
25 the Kansas Statutes Annotated, and amendments thereto, the Kansas
26 family law code, article 11 of chapter 38 of the Kansas Statutes Annotated,
27 and amendments thereto, determination of parentage, article 21 of chapter
28 59 of the Kansas Statutes Annotated, and amendments thereto, adoption
29 and relinquishment act, or article 30 of chapter 59 of the Kansas Statutes
30 Annotated, and amendments thereto, guardians and conservators.

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

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

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

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

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

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

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

13 (s) "Jail" means:

14 (1) An adult jail or lockup; or

15 (2) a facility in the same building or on the same grounds as an adult
16 jail or lockup, unless the facility meets all applicable standards and
17 licensure requirements under law and there is: (A) Total separation of the
18 juvenile and adult facility spatial areas such that there could be no
19 haphazard or accidental contact between juvenile and adult residents in the
20 respective facilities; (B) total separation in all juvenile and adult program
21 activities within the facilities, including recreation, education, counseling,
22 health care, dining, sleeping and general living activities; and (C) separate
23 juvenile and adult staff, including management, security staff and direct
24 care staff such as recreational, educational and counseling.

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

28 (u) "Juvenile intake and assessment worker" means a responsible
29 adult authorized to perform intake and assessment services as part of the
30 intake and assessment system established pursuant to K.S.A. 75-7023, and
31 amendments thereto.

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

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

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

42 (y) "Multidisciplinary team" means a group of persons, appointed by
43 the court under K.S.A. 38-2228, and amendments thereto, that has

1 knowledge of the circumstances of a child in need of care.

2 (z) (1) "Neglect" means acts or omissions by a parent, guardian or
3 person *who is* responsible for the care of a child resulting in harm to a
4 child; or presenting a ~~likelihood of~~ *substantial risk of serious* harm; and
5 the acts or omissions are not due solely to the lack of financial means of
6 the child's ~~parents~~ *parent, guardian or other custodian person who is*
7 *responsible for the care of such child. The inability to provide for a child*
8 *due to inadequate financial resources by a parent, guardian or person who*
9 *is responsible for the care of such child shall not be considered neglect for*
10 *such reason alone. Neglect may include, but shall not be limited to:*

11 ~~(1) Failure~~(A) *Unreasonable failure or refusal* to provide the child
12 with food, clothing or shelter necessary to sustain the life or health of the
13 child *when the parent, guardian or person who is responsible for the care*
14 *of such child is otherwise financially able to provide such care or offered*
15 *financial or other reasonable resources to provide such care;*

16 ~~(2) failure~~(B) *unreasonable failure or refusal* to provide adequate
17 supervision of a child or to remove a child from a situation that requires
18 judgment or actions beyond the child's level of maturity, physical
19 condition or mental abilities and that results in bodily injury or ~~a~~
20 ~~likelihood of~~ *presenting a substantial risk of serious* harm to the child; or

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

30 (2) *"Neglect" includes the cumulative effects of a pattern of conduct,*
31 *behavior or inaction on the part of a parent, guardian or person who is*
32 *responsible for the care of a child.*

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

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

43 (dd) "Permanent custodian" means a judicially approved permanent

1 guardian of a child pursuant to K.S.A. 38-2272, and amendments thereto.

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

9 (gg) "Qualified residential treatment program" means a program
10 designated by the secretary for children and families as a qualified
11 residential treatment program pursuant to federal law.

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

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

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

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

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

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

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

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

43 (nn) "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 (oo) "Support, opportunity, unity, legal relationships family legal
6 permanency" or "SOUL family legal permanency" means the appointment
7 of one or more adults, approved by a child who is 16 years of age or older
8 and the subject of a child in need of care proceeding, pursuant to K.S.A.
9 38-2272a, and amendments thereto.

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

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

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

30 (ss) "Behavioral health crisis" means behavioral and conduct issues
31 that impact the safety or health of a child, members of the child's
32 household or family or members of the community, including, but not
33 limited to, non-life threatening mental health and substance abuse
34 concerns.

35 Sec. 2. K.S.A. 2024 Supp. 38-2231 is hereby amended to read as
36 follows: 38-2231. (a) A law enforcement officer or court services officer
37 shall take a child under 18 years of age into custody when:

38 (1) The law enforcement officer or court services officer has a court
39 order commanding that the child be taken into custody as a child in need
40 of care; or

41 (2) the law enforcement officer or court services officer has probable
42 cause to believe that a court order commanding that the child be taken into
43 custody as a child in need of care has been issued in this state or in another

1 jurisdiction.

2 (b) A law enforcement officer ~~shall~~ *may* take a child under 18 years
3 of age into custody when the officer:

4 (1) Reasonably believes the child will be *seriously* harmed if not
5 immediately removed from the place or residence where the child has been
6 found;

7 ~~(2) has probable cause to believe that the child is a runaway or a~~
8 ~~missing person or a verified missing person entry for the child can be~~
9 ~~found in the national crime information center missing person system;~~

10 ~~(3) reasonably believes the child is a victim of human trafficking,~~
11 ~~aggravated human trafficking or commercial sexual exploitation of a child;~~
12 or

13 ~~(4)~~(2) reasonably believes the child is experiencing a behavioral
14 health crisis and is likely to cause harm to self or others.

15 (c) *A law enforcement officer shall explore other options to separate*
16 *the child from the source of serious harm before removal of such child as*
17 *provided in subsection (b).*

18 (d) *The secretary shall provide an electronic means of*
19 *communication for a responding law enforcement officer to refer a child*
20 *who may be a victim of abuse or neglect to the secretary. The secretary*
21 *shall receive such referrals, determine whether to initiate an investigation*
22 *of abuse or neglect and, within 24 hours of the submission of such*
23 *referral, respond to such law enforcement officer.*

24 (e) *A law enforcement officer shall take a child under 18 years of age*
25 *into custody when the officer:*

26 (1) *Has probable cause to believe that the child is a runaway or a*
27 *missing person or a verified missing person entry for the child can be*
28 *found in the national crime information center missing person system; or*

29 (2) *reasonably believes the child is a victim of human trafficking,*
30 *aggravated human trafficking or commercial sexual exploitation of a*
31 *child.*

32 (f) (1) If a person provides shelter to a child whom the person knows
33 is a runaway, such person shall promptly report the child's location either
34 to a law enforcement agency or to the child's parent or other custodian.

35 (2) If a person reports a runaway's location to a law enforcement
36 agency pursuant to this section and a law enforcement officer of the
37 agency has reasonable grounds to believe that it is in the child's best
38 interests, the child may be allowed to remain in the place where shelter is
39 being provided, subject to subsection ~~(b)~~(e), in the absence of a court order
40 to the contrary. If the child is allowed to so remain, the law enforcement
41 agency shall promptly notify the secretary of the child's location and
42 circumstances.

43 ~~(d)~~(g) Except as provided in subsections (a) ~~and~~, (b) *and* (e), a law

1 enforcement officer may temporarily detain and assume temporary custody
2 of any child subject to compulsory school attendance, pursuant to K.S.A.
3 72-3120, and amendments thereto, during the hours school is actually in
4 session and shall deliver the child pursuant to K.S.A. 38-2232(g), and
5 amendments thereto.

6 Sec. 3. K.S.A. 2024 Supp. 38-2234 is hereby amended to read as
7 follows: 38-2234. (a) *Filing and contents of petition.* (1) A petition filed to
8 commence an action pursuant to this code shall be filed with the clerk of
9 the district court and shall state, if known:

- 10 (A) The name, date of birth and residence address of the child;
11 (B) the name and residence address of the child's parents;
12 (C) the name and address of the child's nearest known relative if no
13 parent can be found;
14 (D) the name and residence address of any persons having custody or
15 control of the child; and
16 (E) plainly and concisely in the language of the statutory definition,
17 the basis for the petition.

18 (2) The petition shall also state the specific facts that are relied upon
19 to support the allegation referred to in the preceding paragraph, including
20 any known dates, times and locations.

21 (3) The proceedings shall be entitled: "In the Interest of
22 _____."

23 (4) The petition shall contain a request that the court find the child to
24 be a child in need of care.

25 (5) The petition shall contain a request that the parent or parents be
26 ordered to pay child support. The request for child support may be omitted
27 with respect to a parent already ordered to pay child support for the child
28 and shall be omitted with respect to one or both parents upon written
29 request of the secretary.

30 (6) If the petition requests custody of the child to the secretary or a
31 person other than the child's parent, the petition shall specify the efforts
32 known to the petitioner to have been made to maintain the family and
33 prevent the transfer of custody, or it shall specify the facts demonstrating
34 that an emergency exists ~~which~~ *that* threatens the safety to the child.

35 (7) (A) If the petition requests removal of the child from the child's
36 home, in addition to the information required by K.S.A. 38-2234(a)(6),
37 and amendments thereto, the petition shall specify the facts demonstrating
38 that allowing the child to remain in the home would be contrary to the
39 welfare of the child or that placement is in the best interests of the child
40 and ~~there is a substantial risk of serious harm to the child-is likely to~~
41 ~~sustain harm~~ *if not removed from the home. Facts demonstrating serious*
42 *harm shall not be based solely on:*

43 (i) *Community or family poverty;*

- 1 (ii) *isolation;*
- 2 (iii) *age of the parent;*
- 3 (iv) *crowded or inadequate housing;*
- 4 (v) *a non-felony drug crime without harm;*
- 5 (vi) *mental or behavioral health conditions;*
- 6 (vii) *disability or special needs of the parent or child;*
- 7 (viii) *a finding of noncompliance with compulsory school attendance*
- 8 *pursuant to K.S.A. 72-3121, and amendments thereto; or*
- 9 (ix) *one of the facts listed in clauses (ii) through (viii) co-occurring*
- 10 *with community or family poverty.*

11 (B) *Including serious harm to the child in such petition may consider*
12 *that such harm outweighs the harm to the child as a result of such*
13 *requested removal.*

14 (8) The petition shall have an attached copy of the prevention plan, if
15 any, that has been prepared for the child.

16 (9) The petition shall contain the following statement: "If you do not
17 appear in court the court will be making decisions without your input,
18 which could result in:

19 (A) The permanent or temporary removal of the child from the
20 custody of the parent or present legal guardian;

21 (B) an order requiring one or both parents to pay child support until
22 the permanent termination of one or both of the parents' parental rights;

23 (C) the permanent termination of one or both of the parents' parental
24 rights;

25 (D) the appointment of a SOUL family legal permanency custodian
26 for the child; and

27 (E) the appointment of a permanent custodian for the child.

28 If you cannot attend the hearing you may send a written response to the
29 petition to the clerk of the court."

30 (10) The petition shall contain the following statement: "You may
31 receive further notices of other hearings, proceedings and actions in this
32 case which you may attend. These notices will be sent to you by first class
33 mail to your last known address or an address you provide to the court. It
34 is your responsibility to keep the court informed of your current address."

35 (b) *Motions.* Motions may be made orally or in writing. The motion
36 shall state with particularity the grounds for the motion and shall state the
37 relief or order sought.

38 Sec. 4. K.S.A. 2024 Supp. 38-2243 is hereby amended to read as
39 follows: 38-2243. (a) Upon notice and hearing, the court may issue an
40 order directing who shall have temporary custody and may modify the
41 order during the pendency of the proceedings as will best serve the child's
42 welfare.

43 (b) A hearing pursuant to this section shall be held within 72 hours,

1 excluding Saturdays, Sundays, legal holidays, and days on which the
2 office of the clerk of the court is not accessible, following a child having
3 been taken into protective custody.

4 (c) Whenever it is determined that a temporary custody hearing is
5 required, the court shall immediately set the time and place for the hearing.
6 Notice of a temporary custody hearing shall be given to all parties and
7 interested parties.

8 (d) Notice of the temporary custody hearing shall be given at least 24
9 hours prior to the hearing. The court may continue the hearing to afford the
10 24 hours prior notice or, with the consent of the party or interested party,
11 proceed with the hearing at the designated time. If an order of temporary
12 custody is entered and the parent or other person having custody of the
13 child has not been notified of the hearing, did not appear or waive
14 appearance and requests a rehearing, the court shall rehear the matter
15 without unnecessary delay.

16 (e) Oral notice may be used for giving notice of a temporary custody
17 hearing where there is insufficient time to give written notice. Oral notice
18 is completed upon filing a certificate of oral notice.

19 (f) *Subject to subsection (g)*, the court may enter an order of
20 temporary custody after determining *that* there is probable cause to believe
21 that the:

- 22 (1) Child is dangerous to self or to others;
- 23 (2) child is not likely to be available within the jurisdiction of the
24 court for future proceedings;
- 25 (3) health or welfare of the child may be endangered without further
26 care;
- 27 (4) child has been subjected to human trafficking or aggravated
28 human trafficking, as defined by K.S.A. 21-5426, and amendments
29 thereto, or commercial sexual exploitation of a child, as defined by K.S.A.
30 21-6422, and amendments thereto;

31 (5) child is experiencing a behavioral health crisis and is in need of
32 treatment; or

33 (6) child committed an act which, if committed by an adult, would
34 constitute a violation of K.S.A. 21-6419, and amendments thereto.

35 (g) (1) *If the court determines that there is probable cause under*
36 *subsection (f), before entering an order of temporary custody, the court*
37 *shall further consider the following:*

38 (A) *Whether participation by the parents, guardians or legal*
39 *custodians in any prevention services would prevent or eliminate the need*
40 *for removal, and if so, the court shall inquire from the parent if such*
41 *parent is willing to participate in such services. The court shall not order*
42 *a parent to participate in prevention services over the objection of such*
43 *parent, except that a parent may have the opportunity to consult with*

1 *counsel prior to deciding whether to agree to proposed prevention services*
2 *as a condition of having the child return to or remain in the care of the*
3 *parent; and*

4 *(B) whether the issuance of the temporary order of protection*
5 *directing the removal of a person or persons from the child's residence*
6 *would prevent the need for removal of the child.*

7 *(2) If the parent agrees to participate in prevention services identified*
8 *by the court under this subsection that would prevent or eliminate the need*
9 *for removal, the court shall place the child with such parent.*

10 *(3) This subsection shall apply to proceedings filed on and after*
11 *January 1, 2026.*

12 *(4) The secretary shall update policies in compliance with this*
13 *subsection and shall submit copies of such policies to the joint committee*
14 *on child welfare system oversight on or before January 1, 2026.*

15 *(h) (1) Whenever the court determines the necessity for an order of*
16 *temporary custody the court may place the child in the temporary custody*
17 *of:*

18 *(A) A parent or other person having custody of the child and may*
19 *enter a restraining order pursuant to subsection ~~(h)~~(i);*

20 *(B) a person, other than the parent or other person having custody,*
21 *who shall not be required to be licensed under article 5 of chapter 65 of the*
22 *Kansas Statutes Annotated, and amendments thereto;*

23 *(C) a youth residential facility;*

24 *(D) a shelter facility;*

25 *(E) a staff secure facility, notwithstanding any other provision of law,*
26 *if the child has been subjected to human trafficking or aggravated human*
27 *trafficking, as defined by K.S.A. 21-5426, and amendments thereto, or*
28 *commercial sexual exploitation of a child, as defined by K.S.A. 21-6422,*
29 *and amendments thereto, or the child committed an act which, if*
30 *committed by an adult, would constitute a violation of K.S.A. 21-6419,*
31 *and amendments thereto;*

32 *(F) after written authorization by a community mental health center, a*
33 *juvenile crisis intervention center, as described in K.S.A. 65-536, and*
34 *amendments thereto; or*

35 *(G) the secretary, if the child is 15 years of age or younger, or 16 or*
36 *17 years of age if the child has no identifiable parental or family resources*
37 *or shows signs of physical, mental, emotional or sexual abuse.*

38 *(2) If the secretary presents the court with a plan to provide services*
39 *to a child or family ~~which~~ that the court finds will assure the safety of the*
40 *child, the court may only place the child in the temporary custody of the*
41 *secretary until the court finds the services are in place. The court shall*
42 *have the authority to require any person or entity agreeing to participate in*
43 *the plan to perform as set out in the plan. When the child is placed in the*

1 temporary custody of the secretary, the secretary shall have the
2 discretionary authority to place the child with a parent or to make other
3 suitable placement for the child. When the child is placed in the temporary
4 custody of the secretary and the child has been subjected to human
5 trafficking or aggravated human trafficking, as defined by K.S.A. 21-5426,
6 and amendments thereto, or commercial sexual exploitation of a child, as
7 defined by K.S.A. 21-6422, and amendments thereto, or the child
8 committed an act which, if committed by an adult, would constitute a
9 violation of K.S.A. 21-6419, and amendments thereto, the secretary shall
10 have the discretionary authority to place the child in a staff secure facility,
11 notwithstanding any other provision of law. When the child is presently
12 alleged, but not yet adjudicated to be a child in need of care solely
13 pursuant to K.S.A. 38-2202(d)(9) or (d)(10), and amendments thereto, the
14 child may be placed in a secure facility, but the total amount of time that
15 the child may be held in such facility under this section and K.S.A. 38-
16 2242, and amendments thereto, shall not exceed 24 hours, excluding
17 Saturdays, Sundays, legal holidays; and days on which the office of the
18 clerk of the court is not accessible. The order of temporary custody shall
19 remain in effect until modified or rescinded by the court or an adjudication
20 order is entered but not exceeding 60 days, unless good cause is shown
21 and stated on the record.

22 ~~(h)~~(i) If the court issues an order of temporary custody, the court may
23 also enter an order restraining any alleged perpetrator of physical, sexual,
24 mental or emotional abuse of the child from residing in the child's home;
25 visiting, contacting, harassing or intimidating the child; or attempting to
26 visit, contact, harass or intimidate the child, other family members or
27 witnesses. Such restraining order shall be served by personal service
28 pursuant to K.S.A. 38-2237(a), and amendments thereto, on any alleged
29 perpetrator to whom the order is directed.

30 ~~(i)~~(j) (1) The court shall not enter the initial order removing a child
31 from the custody of a parent pursuant to this section unless the court first
32 finds probable cause that:

33 (A) (i) The child is likely to sustain harm if not immediately removed
34 from the home;

35 (ii) allowing the child to remain in home is contrary to the welfare of
36 the child; or

37 (iii) immediate placement of the child is in the best interest of the
38 child; and

39 (B) reasonable efforts have been made to maintain the family unit and
40 prevent the unnecessary removal of the child from the child's home or that
41 an emergency exists ~~which~~ *that* threatens the safety to the child.

42 (2) Such findings shall be included in any order entered by the court.
43 If the child is placed in the custody of the secretary, upon making the order

1 the court shall provide the secretary with a written copy.

2 ~~(j)~~(k) If the court enters an order of temporary custody that provides
3 for placement of the child with a person other than the parent, the court
4 shall make a child support determination pursuant to K.S.A. 38-2277, and
5 amendments thereto.

6 ~~(k)~~(l) For the purposes of this section, "harassing or intimidating" and
7 "harass or intimidate" includes, but is not limited to, utilizing any
8 electronic tracking system or acquiring tracking information to determine
9 the targeted person's location, movement or travel patterns.

10 Sec. 5. K.S.A. 2024 Supp. 38-2202, 38-2231, 38-2234 and 38-2243
11 are hereby repealed.

12 Sec. 6. This act shall take effect and be in force from and after its
13 publication in the statute book.