

**SENATE BILL No. 408**

By Committee on Judiciary

1-28

1 AN ACT concerning children and minors; related to the revised Kansas  
2 code for care of children; amending the definition of child in need of  
3 care to exclude a child engaging in age-appropriate independent  
4 activities; excluding a child engaging in independent activities from the  
5 crime of endangering a child; amending K.S.A. 23-2215, 23-3207, 38-  
6 2232, 38-2242, 38-2260 and 38-2271 and K.S.A. 2025 Supp. 21-5601,  
7 38-2202 and 38-2243 and repealing the existing sections.

8  
9 *Be it enacted by the Legislature of the State of Kansas:*

10 Section 1. K.S.A. 2025 Supp. 21-5601 is hereby amended to read as  
11 follows: 21-5601. (a) Endangering a child is knowingly and unreasonably  
12 causing or permitting a child under the age of 18 years to be placed in a  
13 situation in which the child's life, body or health may be endangered.

14 (b) Aggravated endangering a child is:

15 (1) Recklessly causing or permitting a child under the age of 18 years  
16 to be placed in a situation in which the child's life, body or health is  
17 endangered;

18 (2) causing or permitting such child to be in an environment where  
19 the person knows or reasonably should know that any person is  
20 distributing, possessing with intent to distribute, manufacturing or  
21 attempting to manufacture any methamphetamine or any fentanyl-related  
22 controlled substance; or

23 (3) causing or permitting such child to be in an environment where  
24 the person knows or reasonably should know that:

25 (A) Drug paraphernalia or volatile, toxic or flammable chemicals are  
26 stored or used for the purpose of manufacturing or attempting to  
27 manufacture any methamphetamine; or

28 (B) drug paraphernalia or toxic materials, compounds or mixtures are  
29 stored or used for the purpose of manufacturing or attempting to  
30 manufacture any fentanyl-related controlled substance.

31 (c) (1) Endangering a child is a class A person misdemeanor.

32 (2) Aggravated endangering a child is a:

33 (A) Severity level 9, person felony except as provided in subsection  
34 (c)(2)(B); and

35 (B) severity level 6, person felony when bodily harm is inflicted upon  
36 the child.

1 (3) The sentence for a violation of aggravated endangering a child  
2 shall be served consecutively to any other term or terms of imprisonment  
3 imposed. Such sentence shall not be considered a departure and shall not  
4 be subject to appeal.

5 (d) Nothing in subsection (a) shall be construed to mean a child is  
6 endangered for the sole reason the child's parent or guardian;

7 (1) In good faith, selects and depends upon spiritual means alone  
8 through prayer, in accordance with the tenets and practice of a recognized  
9 church or religious denomination, for the treatment or cure of disease or  
10 remedial care of such child; *or*

11 (2) *permits or fails to prohibit a child from engaging in independent*  
12 *activity as described in K.S.A. 38-2202, and amendments thereto, unless*  
13 *such parent or guardian has knowingly or recklessly disregarded an*  
14 *obvious danger to the child given the child's age, maturity and physical or*  
15 *mental abilities.*

16 (e) As used in this section:

17 (1) "Drug paraphernalia," "fentanyl-related controlled substance" and  
18 "manufacture" mean the same as defined in K.S.A. 21-5701, and  
19 amendments thereto; and

20 (2) "methamphetamine" means any substance designated in K.S.A.  
21 65-4107(d)(3) or (f)(1), and amendments thereto, or any analog thereof.

22 Sec. 2. K.S.A. 23-3207 is hereby amended to read as follows: 23-  
23 3207. After making a determination of the legal custodial arrangements,  
24 the court shall determine the residency of the child from the following  
25 options, which arrangement the court must find to be in the best interest of  
26 the child. The parties shall submit to the court either an agreed parenting  
27 plan or, in the case of dispute, proposed parenting plans for the court's  
28 consideration. Such options are:

29 (a) *Residency.* The court may order a residential arrangement in  
30 which the child resides with one or both parents on a basis consistent with  
31 the best interests of the child.

32 (b) *Divided residency.* In an exceptional case, the court may order a  
33 residential arrangement in which one or more children reside with each  
34 parent and have parenting time with the other.

35 (c) *Nonparental residency.* If during the proceedings the court  
36 determines that there is probable cause to believe that the child is a child in  
37 need of care as defined by ~~subsections K.S.A. 38-2202(d)(1)(A), (d)(2)(d)~~  
38 ~~(1)(B), (d)(3)(D)(1)(C) or (d)(11) of K.S.A. 38-2202(d)(1)(K), and~~  
39 amendments thereto, or that neither parent is fit to have residency, the  
40 court may award temporary residency of the child to a grandparent, aunt,  
41 uncle or adult sibling, or, another person or agency if the court finds by  
42 written order that:

43 (1) (A) The child is likely to sustain harm if not immediately removed

1 from the home;

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

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

6 (2) reasonable efforts have been made to maintain the family unit and  
7 prevent the unnecessary removal of the child from the child's home or that  
8 an emergency exists ~~which~~ *that* threatens the safety of the child. In making  
9 such a residency order, the court shall give preference, to the extent that  
10 the court finds it is in the best interests of the child, first to awarding such  
11 residency to a relative of the child by blood, marriage or adoption and  
12 second to awarding such residency to another person with whom the child  
13 has close emotional ties. The court may make temporary orders for care,  
14 support, education and visitation that it considers appropriate. Temporary  
15 residency orders are to be entered in lieu of temporary orders provided for  
16 in K.S.A. 38-2243 and 38-2244, and amendments thereto, and shall remain  
17 in effect until there is a final determination under the revised Kansas code  
18 for care of children. An award of temporary residency under this paragraph  
19 shall not terminate parental rights nor give the court the authority to  
20 consent to the adoption of the child. When the court enters orders  
21 awarding temporary residency of the child to an agency or a person other  
22 than the parent, the court shall refer a transcript of the proceedings to the  
23 county or district attorney. The county or district attorney shall file a  
24 petition as provided in K.S.A. 38-2234, and amendments thereto, and may  
25 request termination of parental rights pursuant to K.S.A. 38-2266, and  
26 amendments thereto. The costs of the proceedings shall be paid from the  
27 general fund of the county. When a final determination is made that the  
28 child is not a child in need of care, the county or district attorney shall  
29 notify the court in writing and the court, after a hearing, shall enter  
30 appropriate custody orders pursuant to this article. If the same judge  
31 presides over both proceedings, the notice is not required. Any order  
32 pursuant to the revised Kansas code for care of children shall take  
33 precedence over any order under this article.

34 Sec. 3. K.S.A. 23-2215 is hereby amended to read as follows: 23-  
35 2215. (a) The judgment or order of the court determining the existence or  
36 nonexistence of the parent and child relationship is determinative for all  
37 purposes, but if any person necessary to determine the existence of a father  
38 and child relationship for all purposes has not been joined as a party, a  
39 determination of the paternity of the child shall have only the force and  
40 effect of a finding of fact necessary to determine a party's duty of support.

41 (b) If the judgment or order of the court is at variance with the child's  
42 birth certificate, the court shall order that a new birth certificate be issued,  
43 but only if any man named as the father on the birth certificate is a party to

1 the action.

2 (c) Upon adjudging that a party is the parent of a minor child, the  
3 court shall make provision for support and education of the child under  
4 article 30 of chapter 23 of the Kansas Statutes Annotated, and amendments  
5 thereto. The court may order the payment of all or a portion of the  
6 necessary medical expenses incident to the child's birth. The court may  
7 order the support and education expenses to be paid by either or both  
8 parents for the minor child.

9 (d) If both parents are parties to the action, the court shall enter such  
10 orders regarding custody, residency and parenting time as the court  
11 considers to be in the best interest of the child.

12 If the parties have an agreed parenting plan it shall be presumed the  
13 agreed parenting plan is in the best interest of the child. This presumption  
14 may be overcome and the court may make a different order if the court  
15 makes specific findings of fact stating why the agreed parenting plan is not  
16 in the best interest of the child. If the parties are not in agreement on a  
17 parenting plan, each party shall submit a proposed parenting plan to the  
18 court for consideration at such time before the final hearing as may be  
19 directed by the court.

20 (e) If during the proceedings the court determines that there is  
21 probable cause to believe that the child is a child in need of care, as  
22 defined by ~~subsections (d)(1), (d)(2), (d)(3) or (d)(11) of K.S.A. 38-~~  
23 ~~2202(d)(1)(A), (d)(1)(B), (d)(1)(C) or (d)(1)(K),~~ and amendments thereto,  
24 or that neither parent is fit to have residency, the court may award  
25 temporary residency of the child to a grandparent, aunt, uncle or adult  
26 sibling, or another person or agency if the court finds by written order that:  
27 (1) (A) The child is likely to sustain harm if not immediately removed  
28 from the home; (B) allowing the child to remain in home is contrary to the  
29 welfare of the child; or (C) immediate placement of the child is in the best  
30 interest of the child; and (2) reasonable efforts have been made to maintain  
31 the family unit and prevent the unnecessary removal of the child from the  
32 child's home or that an emergency exists ~~which~~ *that* threatens the safety of  
33 the child. In making such a residency order, the court shall give preference,  
34 to the extent that the court finds it is in the best interests of the child, first  
35 to awarding such residency to a relative of the child by blood, marriage or  
36 adoption and second to awarding such residency to another person with  
37 whom the child has close emotional ties. The court may make temporary  
38 orders for care, support, education and visitation that it considers  
39 appropriate. Temporary residency orders are to be entered in lieu of  
40 temporary orders provided for in K.S.A. 38-2243 and 38-2244, and  
41 amendments thereto, and shall remain in effect until there is a final  
42 determination under the revised Kansas code for care of children. An  
43 award of temporary residency under this subsection shall not terminate

1 parental rights nor give the court the authority to consent to the adoption of  
2 the child. When the court enters orders awarding temporary residency of  
3 the child to an agency or a person other than the parent, the court shall  
4 refer a transcript of the proceedings to the county or district attorney. The  
5 county or district attorney shall file a petition as provided in K.S.A. 38-  
6 2234, and amendments thereto, and may request termination of parental  
7 rights pursuant to K.S.A. 38-2266, and amendments thereto. The costs of  
8 the proceedings shall be paid from the general fund of the county. If a final  
9 determination is made that the child is not a child in need of care, the  
10 county or district attorney shall notify the court in writing and the court,  
11 after a hearing, shall enter appropriate custody orders pursuant to this  
12 section. If the same judge presides over both proceedings, the notice is not  
13 required. Any order pursuant to the revised Kansas code for care of  
14 children shall take precedence over any similar order under this section.

15 (f) (1) In entering an original order for support of a child under this  
16 section, the court may award an additional judgment to the mother or any  
17 other party who made expenditures for support and education of the child  
18 from the date of birth to the date the order is entered. If the determination  
19 of paternity is based upon a presumption arising under K.S.A. 23-2208,  
20 and amendments thereto, the court shall award an additional judgment to  
21 reimburse all or part of the expenses of support and education of the child  
22 from at least the date the presumption first arose to the date the order is  
23 entered, except that no additional judgment need be awarded for amounts  
24 accrued under a previous order for the child's support.

25 (2) The court may consider any affirmative defenses pled and proved  
26 in making an award under this subsection.

27 (3) The amount of any award made under this subsection shall be  
28 determined by application of the Kansas child support guidelines. For any  
29 period occurring five years or less before or after commencement of the  
30 action, there is a rebuttable presumption that such child support guidelines  
31 amount reflects the actual expenditures made on the child's behalf during  
32 that period. For any period occurring more than five years before  
33 commencement of the action, the person seeking the award has the burden  
34 of proving that the total amount requested for that period does not exceed  
35 expenditures actually made on the child's behalf during that period.

36 Sec. 4. K.S.A. 2025 Supp. 38-2202 is hereby amended to read as  
37 follows: 38-2202. As used in the revised Kansas code for care of children,  
38 unless the context otherwise indicates:

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

42 (b) "Adult correction facility" means any public or private facility,  
43 secure or nonsecure, that is used for the lawful custody of accused or

1 convicted adult criminal offenders.

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

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

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

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

12 ~~(3)~~(C) has been physically, mentally or emotionally abused or  
13 neglected or sexually abused;

14 ~~(4)~~(D) has been placed for care or adoption in violation of law;

15 ~~(5)~~(E) has been abandoned or does not have a known living parent;

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

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

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

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

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

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

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

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

41 ~~(14)~~(N) has been subjected to an act that would constitute human  
42 trafficking or aggravated human trafficking, as defined by K.S.A. 21-5426,  
43 and amendments thereto, or commercial sexual exploitation of a child, as

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

4 (2) (A) *"Child in need of care" does not mean a person less than 18*  
5 *years of age at the time of the filing of the petition or issuance of the ex*  
6 *parte protective custody order pursuant to K.S.A. 38-2242, and*  
7 *amendments thereto, who is engaging in independent activities without*  
8 *adult supervision when a parent allows such child to engage in such*  
9 *independent activities, if:*

10 (i) *Such independent activities are appropriate based on the child's*  
11 *age, maturity and mental abilities; and*

12 (ii) *such lack of supervision does not constitute conduct that is so*  
13 *grossly negligent as to endanger the health or safety of the child.*

14 (B) *As used in this paragraph, "independent activities" includes, but*  
15 *is not limited to, traveling to or from school or nearby locations on foot or*  
16 *by bicycle, playing outdoors, remaining at home for a reasonable amount*  
17 *of time or remaining in a vehicle that is not dangerously hot or cold for a*  
18 *reasonable amount of time.*

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

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

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

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

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

39 (2) continuous trainings on child maltreatment from the CARE  
40 network; and

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

43 (i) "Child abuse review and evaluation referral" or "CARE referral"

1 means a brief written review of allegations of physical abuse, emotional  
2 abuse, medical neglect or physical neglect submitted by the secretary or  
3 law enforcement agency to a child abuse medical resource center for a  
4 recommendation of such child's need for medical care that may include a  
5 CARE exam.

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

9 (k) "Civil custody case" includes any case filed under chapter 23 of  
10 the Kansas Statutes Annotated, and amendments thereto, the Kansas  
11 family law code, article 11 of chapter 38 of the Kansas Statutes Annotated,  
12 and amendments thereto, determination of parentage, article 21 of chapter  
13 59 of the Kansas Statutes Annotated, and amendments thereto, adoption  
14 and relinquishment act, or article 30 of chapter 59 of the Kansas Statutes  
15 Annotated, and amendments thereto, guardians and conservators.

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

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

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

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

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

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

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

41 (s) "Jail" means:

42 (1) An adult jail or lockup; or

43 (2) a facility in the same building or on the same grounds as an adult

1 jail or lockup, unless the facility meets all applicable standards and  
2 licensure requirements under law and there is: (A) Total separation of the  
3 juvenile and adult facility spatial areas such that there could be no  
4 haphazard or accidental contact between juvenile and adult residents in the  
5 respective facilities; (B) total separation in all juvenile and adult program  
6 activities within the facilities, including recreation, education, counseling,  
7 ~~health care~~ *healthcare*, dining, sleeping and general living activities; and  
8 (C) separate juvenile and adult staff, including management, security staff  
9 and direct care staff such as recreational, educational and counseling.

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

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

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

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

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

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

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

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

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

41 (3) failure to use resources available to treat a diagnosed medical  
42 condition if such treatment will make a child substantially more  
43 comfortable, reduce pain and suffering, or correct or substantially diminish

1 a crippling condition from worsening. A parent legitimately practicing  
2 religious beliefs who does not provide specified medical treatment for a  
3 child because of religious beliefs shall, not for that reason, be considered a  
4 negligent parent; however, this exception shall not preclude a court from  
5 entering an order pursuant to K.S.A. 38-2217(a)(2), and amendments  
6 thereto.

7 (aa) "Parent" when used in relation to a child or children, includes a  
8 guardian and every person who is by law liable to maintain, care for or  
9 support the child.

10 (bb) "Party" means the state, the petitioner, the child, any parent of  
11 the child and an Indian child's tribe intervening pursuant to the Indian  
12 child welfare act.

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

17 (dd) "Permanent custodian" means a judicially approved permanent  
18 guardian of a child pursuant to K.S.A. 38-2272, and amendments thereto.

19 (ee) "Physical, mental or emotional abuse" means the infliction of  
20 physical, mental or emotional harm or the causing of a deterioration of a  
21 child and may include, but shall not be limited to, maltreatment or  
22 exploiting a child to the extent that the child's health or emotional well-  
23 being is endangered.

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

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

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

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

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

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

42 (ll) "Secure facility" means a facility, other than a staff secure facility  
43 or juvenile detention facility, that is operated or structured so as to ensure

1 that all entrances and exits from the facility are under the exclusive control  
2 of the staff of the facility, whether or not the person being detained has  
3 freedom of movement within the perimeters of the facility, or that relies on  
4 locked rooms and buildings, fences or physical restraint in order to control  
5 behavior of its residents. No secure facility shall be in a city or county jail.

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

- 10 (1) Be photographed, filmed or depicted in pornographic material; or  
11 (2) be subjected to aggravated human trafficking, as defined in  
12 K.S.A. 21-5426(b), and amendments thereto, if committed in whole or in  
13 part for the purpose of the sexual gratification of the offender or another,  
14 or be subjected to an act that would constitute conduct proscribed by  
15 article 55 of chapter 21 of the Kansas Statutes Annotated or K.S.A. 21-  
16 6419 or 21-6422, and amendments thereto.

17 (nn) "Shelter facility" means any public or private facility or home,  
18 other than a juvenile detention facility or staff secure facility, that may be  
19 used in accordance with this code for the purpose of providing either  
20 temporary placement for children in need of care prior to the issuance of a  
21 dispositional order or longer term care under a dispositional order.

22 (oo) "Support, opportunity, unity, legal relationships family legal  
23 permanency" or "SOUL family legal permanency" means the appointment  
24 of one or more adults, approved by a child who is 16 years of age or older  
25 and the subject of a child in need of care proceeding, pursuant to K.S.A.  
26 38-2272a, and amendments thereto.

27 (pp) "Staff secure facility" means a facility described in K.S.A. 65-  
28 535, and amendments thereto: (1) That does not include construction  
29 features designed to physically restrict the movements and activities of  
30 juvenile residents who are placed therein; (2) that may establish reasonable  
31 rules restricting entrance to and egress from the facility; and (3) in which  
32 the movements and activities of individual juvenile residents may, for  
33 treatment purposes, be restricted or subject to control through the use of  
34 intensive staff supervision. No staff secure facility shall be in a city or  
35 county jail.

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

43 (rr) "Youth residential facility" means any home, foster home or

1 structure that provides 24-hour-a-day care for children and that is licensed  
2 pursuant to article 5 of chapter 65 of the Kansas Statutes Annotated, and  
3 amendments thereto.

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

9 Sec. 5. K.S.A. 38-2232 is hereby amended to read as follows: 38-  
10 2232. (a) (1) To the extent possible, when any law enforcement officer  
11 takes into custody a child under the age of 18 years without a court order,  
12 the child shall promptly be delivered to the custody of the child's parent or  
13 other custodian unless there are reasonable grounds to believe that such  
14 action would not be in the best interests of the child.

15 (2) Except as provided in subsection (b), if the child is not delivered  
16 to the custody of the child's parent or other custodian, the child shall  
17 promptly be delivered to a:

18 (A) (i) Shelter facility designated by the court;

19 (ii) court services officer;

20 (iii) juvenile intake and assessment worker;

21 (iv) licensed attendant care center;

22 (v) juvenile crisis intervention center after written authorization by a  
23 community mental health center; or

24 (vi) other person;

25 (B) if the child is 15 years of age or younger, to a facility or person  
26 designated by the secretary; or

27 (C) if the child is 16 or 17 years of age and the child has no  
28 identifiable parental or family resources or shows signs of physical,  
29 mental, emotional or sexual abuse, to a facility or person designated by the  
30 secretary.

31 (3) If, after delivery of the child to a shelter facility, the person in  
32 charge of the shelter facility at that time and the law enforcement officer  
33 determine that the child will not remain in the shelter facility and if the  
34 child is presently alleged, but not yet adjudicated, to be a child in need of  
35 care solely pursuant to K.S.A. 38-2202(d)~~(9)~~(1)(I) or (d)~~(10)~~(1)(J), and  
36 amendments thereto, the law enforcement officer shall deliver the child to  
37 a secure facility, designated by the court, where the child shall be detained  
38 for not more than 24 hours, excluding Saturdays, Sundays, legal holidays,  
39 and days ~~on which~~ when the office of the clerk of the court is not  
40 accessible.

41 (4) No child taken into custody pursuant to this code shall be placed  
42 in a secure facility, except as authorized by this section and by K.S.A. 38-  
43 2242, 38-2243 and 38-2260, and amendments thereto.

1 (5) It shall be the duty of the law enforcement officer to furnish to the  
2 county or district attorney, without unnecessary delay, all the information  
3 in the possession of the officer pertaining to the child, the child's parents or  
4 other persons interested in or likely to be interested in the child and all  
5 other facts and circumstances ~~which~~ that caused the child to be taken into  
6 custody.

7 (b) (1) When any law enforcement officer takes into custody any  
8 child as provided in K.S.A. 38-2231(b)(2), and amendments thereto,  
9 proceedings shall be initiated in accordance with the provisions of the  
10 interstate compact on juveniles, K.S.A. 38-1001 et seq., and amendments  
11 thereto, or K.S.A. 38-1008, and amendments thereto, when effective. Any  
12 child taken into custody pursuant to the interstate compact on juveniles  
13 may be detained in a juvenile detention facility or other secure facility.

14 (2) When any law enforcement officer takes into custody any child as  
15 provided in K.S.A. 38-2231(b)(3), and amendments thereto, the law  
16 enforcement officer shall place the child in protective custody and may  
17 deliver the child to a staff secure facility. The law enforcement officer shall  
18 contact the department for children and families to begin an assessment to  
19 determine safety, placement and treatment needs for the child. Such child  
20 shall not be placed in a secure facility, except as authorized by this section  
21 and by K.S.A. 38-2242, 38-2243 and 38-2260, and amendments thereto.

22 (3) When any law enforcement officer takes into custody any child as  
23 provided in K.S.A. 38-2231(b)(4), and amendments thereto, the law  
24 enforcement officer shall place the child in protective custody and may  
25 deliver the child to a juvenile crisis intervention center after written  
26 authorization by a community mental health center. Such child shall not be  
27 placed in a juvenile detention facility or other secure facility.

28 (c) Whenever a child under the age of 18 years is taken into custody  
29 by a law enforcement officer without a court order and is thereafter placed  
30 as authorized by subsection (a), the facility or person shall, upon written  
31 application of the law enforcement officer, have physical custody and  
32 provide care and supervision for the child. The application shall state:

33 (1) The name and address of the child, if known;

34 (2) the names and addresses of the child's parents or nearest relatives  
35 and persons with whom the child has been residing, if known; and

36 (3) the officer's belief that the child is a child in need of care and that  
37 there are reasonable grounds to believe that the circumstances or condition  
38 of the child is such that the child would be harmed unless placed in the  
39 immediate custody of the shelter facility or other person.

40 (d) A copy of the application shall be furnished by the facility or  
41 person receiving the child to the county or district attorney without  
42 unnecessary delay.

43 (e) The shelter facility or other person designated by the court who

1 has custody of the child pursuant to this section shall discharge the child  
2 not later than 72 hours following admission, excluding Saturdays,  
3 Sundays, legal holidays, and days ~~on which~~ *when* the office of the clerk of  
4 the court is not accessible, unless a court has entered an order pertaining to  
5 temporary custody or release.

6 (f) In absence of a court order to the contrary, the county or district  
7 attorney or the placing law enforcement agency shall have the authority to  
8 direct the release of the child at any time.

9 (g) When any law enforcement officer takes into custody any child as  
10 provided in K.S.A. 38-2231(d), and amendments thereto, the child shall  
11 promptly be delivered to the school ~~in which~~ *where* the child is enrolled,  
12 any location designated by the school ~~in which~~ *where* the child is enrolled  
13 or the child's parent or other custodian.

14 Sec. 6. K.S.A. 38-2242 is hereby amended to read as follows: 38-  
15 2242. (a) The court, upon verified application, may issue ex parte an order  
16 directing that a child be held in protective custody and, if the child has not  
17 been taken into custody, an order directing that the child be taken into  
18 custody. The application shall state for each child:

19 (1) The applicant's belief that the child is a child in need of care;

20 (2) that the child is likely to sustain harm if not immediately removed  
21 from the home;

22 (3) that allowing the child to remain in the home is contrary to the  
23 welfare of the child; and

24 (4) the facts relied upon to support the application, including efforts  
25 known to the applicant to maintain the family unit and prevent the  
26 unnecessary removal of the child from the child's home, or the specific  
27 facts supporting that an emergency exists ~~which~~ *that* threatens the safety of  
28 the child.

29 (b) (1) The order of protective custody may be issued only after the  
30 court has determined there is probable cause to believe the allegations in  
31 the application are true. The order shall remain in effect until the  
32 temporary custody hearing provided for in K.S.A. 38-2243, and  
33 amendments thereto, unless earlier rescinded by the court.

34 (2) No child shall be held in protective custody for more than 72  
35 hours, excluding Saturdays, Sundays, legal holidays, and days ~~on which~~  
36 *when* the office of the clerk of the court is not accessible, unless within the  
37 72-hour period a determination is made as to the necessity for temporary  
38 custody in a temporary custody hearing. The time spent in custody  
39 pursuant to K.S.A. 38-2232, and amendments thereto, shall be included in  
40 calculating the 72-hour period. Nothing in this subsection shall be  
41 construed to mean that the child must remain in protective custody for 72  
42 hours. If a child is in the protective custody of the secretary, the secretary  
43 shall allow at least one supervised visit between the child and the parent or

1 parents within such time period as the child is in protective custody. The  
2 court may prohibit such supervised visit if the court determines it is not in  
3 the best interest of the child.

4 (c) (1) Whenever the court determines the necessity for an order of  
5 protective custody, the court may place the child in the protective custody  
6 of:

7 (A) A parent or other person having custody of the child and may  
8 enter a restraining order pursuant to subsection (e);

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

12 (C) a youth residential facility;

13 (D) a shelter facility;

14 (E) a staff secure facility, notwithstanding any other provision of law,  
15 if the child has been subjected to human trafficking or aggravated human  
16 trafficking, as defined by K.S.A. 21-5426, and amendments thereto, or  
17 commercial sexual exploitation of a child, as defined by K.S.A. 21-6422,  
18 and amendments thereto, or the child committed an act which, if  
19 committed by an adult, would constitute a violation of K.S.A. 21-6419,  
20 and amendments thereto;

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

24 (G) the secretary, if the child is 15 years of age or younger, or 16 or  
25 17 years of age if the child has no identifiable parental or family resources  
26 or shows signs of physical, mental, emotional or sexual abuse.

27 (2) If the secretary presents the court with a plan to provide services  
28 to a child or family ~~which~~ that the court finds will assure the safety of the  
29 child, the court may only place the child in the protective custody of the  
30 secretary until the court finds the services are in place. The court shall  
31 have the authority to require any person or entity agreeing to participate in  
32 the plan to perform as set out in the plan. When the child is placed in the  
33 protective custody of the secretary, the secretary shall have the  
34 discretionary authority to place the child with a parent or to make other  
35 suitable placement for the child. When the child is placed in the temporary  
36 custody of the secretary and the child has been subjected to human  
37 trafficking or aggravated human trafficking, as defined by K.S.A. 21-5426,  
38 and amendments thereto, or commercial sexual exploitation of a child, as  
39 defined by K.S.A. 21-6422, and amendments thereto, or the child  
40 committed an act which, if committed by an adult, would constitute a  
41 violation of K.S.A. 21-6419, and amendments thereto, the secretary shall  
42 have the discretionary authority to place the child in a staff secure facility,  
43 notwithstanding any other provision of law. When the child is presently

1 alleged, but not yet adjudicated, to be a child in need of care solely  
2 pursuant to K.S.A. 38-2202(d)(9)(I)(I) or (d)(10)(I)(J), and amendments  
3 thereto, the child may be placed in a secure facility pursuant to an order of  
4 protective custody for a period of not to exceed 24 hours, excluding  
5 Saturdays, Sundays, legal holidays, and days ~~on which~~ when the office of  
6 the clerk of the court is not accessible.

7 (d) The order of protective custody shall be served pursuant to K.S.A.  
8 38-2237(a), and amendments thereto, on the child's parents and any other  
9 person having legal custody of the child. The order shall prohibit the  
10 removal of the child from the court's jurisdiction without the court's  
11 permission.

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

21 (f) (1) The court shall not enter the initial order removing a child  
22 from the custody of a parent pursuant to this section unless the court first  
23 finds probable cause that:

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

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

28 (iii) immediate placement of the child is in the best interest of the  
29 child; and

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

33 (2) Such findings shall be included in any order entered by the court.  
34 If the child is placed in the custody of the secretary, the court shall provide  
35 the secretary with a written copy of any orders entered upon making the  
36 order.

37 Sec. 7. K.S.A. 2025 Supp. 38-2243 is hereby amended to read as  
38 follows: 38-2243. (a) Upon notice and hearing, the court may issue an  
39 order directing who shall have temporary custody and may modify the  
40 order during the pendency of the proceedings as will best serve the child's  
41 welfare.

42 (b) A hearing pursuant to this section shall be held within 72 hours,  
43 excluding Saturdays, Sundays, legal holidays, and days ~~on which~~ when the

1 office of the clerk of the court is not accessible, following a child having  
2 been taken into protective custody.

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

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

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

18 (f) The court may enter an order of temporary custody after  
19 determining there is probable cause to believe that the:

20 (1) Child is dangerous to self or to others;

21 (2) child is not likely to be available within the jurisdiction of the  
22 court for future proceedings;

23 (3) health or welfare of the child may be endangered without further  
24 care;

25 (4) child has been subjected to human trafficking or aggravated  
26 human trafficking, as defined by K.S.A. 21-5426, and amendments  
27 thereto, or commercial sexual exploitation of a child, as defined by K.S.A.  
28 21-6422, and amendments thereto;

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

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

33 (g) (1) Whenever the court determines the necessity for an order of  
34 temporary custody the court may place the child in the temporary custody  
35 of:

36 (A) A parent or other person having custody of the child and may  
37 enter a restraining order pursuant to subsection (h);

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

41 (C) a youth residential facility;

42 (D) a shelter facility;

43 (E) a staff secure facility, notwithstanding any other provision of law,

1 if the child has been subjected to human trafficking or aggravated human  
2 trafficking, as defined by K.S.A. 21-5426, and amendments thereto, or  
3 commercial sexual exploitation of a child, as defined by K.S.A. 21-6422,  
4 and amendments thereto, or the child committed an act which, if  
5 committed by an adult, would constitute a violation of K.S.A. 21-6419,  
6 and amendments thereto;

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

10 (G) the secretary, if the child is 15 years of age or younger, or 16 or  
11 17 years of age if the child has no identifiable parental or family resources  
12 or shows signs of physical, mental, emotional or sexual abuse.

13 (2) If the secretary presents the court with a plan to provide services  
14 to a child or family ~~which~~ *that* the court finds will assure the safety of the  
15 child, the court may only place the child in the temporary custody of the  
16 secretary until the court finds the services are in place. The court shall  
17 have the authority to require any person or entity agreeing to participate in  
18 the plan to perform as set out in the plan. When the child is placed in the  
19 temporary custody of the secretary, the secretary shall have the  
20 discretionary authority to place the child with a parent or to make other  
21 suitable placement for the child. When the child is placed in the temporary  
22 custody of the secretary and the child has been subjected to human  
23 trafficking or aggravated human trafficking, as defined by K.S.A. 21-5426,  
24 and amendments thereto, or commercial sexual exploitation of a child, as  
25 defined by K.S.A. 21-6422, and amendments thereto, or the child  
26 committed an act which, if committed by an adult, would constitute a  
27 violation of K.S.A. 21-6419, and amendments thereto, the secretary shall  
28 have the discretionary authority to place the child in a staff secure facility,  
29 notwithstanding any other provision of law. When the child is presently  
30 alleged, but not yet adjudicated to be a child in need of care solely  
31 pursuant to K.S.A. 38-2202(d)~~(9)~~(I)(I) or (d)~~(10)~~(I)(J), and amendments  
32 thereto, the child may be placed in a secure facility, but the total amount of  
33 time that the child may be held in such facility under this section and  
34 K.S.A. 38-2242, and amendments thereto, shall not exceed 24 hours,  
35 excluding Saturdays, Sundays, legal holidays, and days ~~on which~~ *when* the  
36 office of the clerk of the court is not accessible. The order of temporary  
37 custody shall remain in effect until modified or rescinded by the court or  
38 an adjudication order is entered but not exceeding 60 days, unless good  
39 cause is shown and stated on the record.

40 (h) If the court issues an order of temporary custody, the court may  
41 also enter an order restraining any alleged perpetrator of physical, sexual,  
42 mental or emotional abuse of the child from residing in the child's home;  
43 visiting, contacting, harassing or intimidating the child; or attempting to

1 visit, contact, harass or intimidate the child, other family members or  
 2 witnesses. Such restraining order shall be served by personal service  
 3 pursuant to K.S.A. 38-2237(a), and amendments thereto, on any alleged  
 4 perpetrator to whom the order is directed.

5 (i) (1) The court shall not enter the initial order removing a child from  
 6 the custody of a parent pursuant to this section unless the court first finds  
 7 probable cause that:

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

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

12 (iii) immediate placement of the child is in the best interest of the  
 13 child; and

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

17 (2) Such findings shall be included in any order entered by the court.  
 18 If the child is placed in the custody of the secretary, upon making the order  
 19 the court shall provide the secretary with a written copy.

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

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

28 Sec. 8. K.S.A. 38-2260 is hereby amended to read as follows: 38-  
 29 2260. (a) *Valid court order*. During proceedings under this code, the court  
 30 may enter an order directing a child who is the subject of the proceedings  
 31 to remain in a present or future placement if:

32 (1) The child and the child's guardian ad litem are present in court  
 33 when the order is entered;

34 (2) the court finds that the child has been adjudicated a child in need  
 35 of care pursuant to K.S.A. 38-2202~~(d)(6), (d)(7), (d)(8), (d)(9), (d)(10)(d)~~  
 36 *(1)(F), (d)(1)(G), (d)(1)(H), (d)(1)(I), (d)(1)(J)* or ~~(d)(12)(d)(1)(L)~~, and  
 37 amendments thereto, and that the child is not likely to be available within  
 38 the jurisdiction of the court for future proceedings;

39 (3) the child and the guardian ad litem receive oral and written notice  
 40 of the consequences of violation of the order; and

41 (4) a copy of the written notice is filed in the official case file.

42 (b) *Application*. Any person may file a verified application for  
 43 determination that a child has violated an order entered pursuant to

1 subsection (a) and for an order authorizing holding the child in a secure  
2 facility. The application shall state the applicant's belief that the child has  
3 violated the order entered pursuant to subsection (a) without good cause  
4 and the specific facts supporting the allegation.

5 (c) *Ex parte order.* After reviewing the application filed pursuant to  
6 subsection (b), the court may enter an ex parte order directing that the  
7 child be taken into custody and held in a secure facility designated by the  
8 court, if the court finds probable cause that the child violated the court's  
9 order to remain in placement without good cause. Pursuant to K.S.A. 38-  
10 2237, and amendments thereto, the order shall be served on the child's  
11 parents, the child's legal custodian and the child's guardian ad litem.

12 (d) *Preliminary hearing.* Within 24 hours following a child's being  
13 taken into custody pursuant to an order issued under subsection (c), the  
14 court shall hold a preliminary hearing to determine whether the child  
15 admits or denies the allegations of the application and, if the child denies  
16 the allegations, to determine whether probable cause exists to support the  
17 allegations.

18 (1) Notice of the time and place of the preliminary hearing shall be  
19 given orally or in writing to the child's parents, the child's legal custodian  
20 and the child's guardian ad litem.

21 (2) At the hearing, the child shall have the right to a guardian ad litem  
22 and shall be served with a copy of the application.

23 (3) If the child admits the allegations or enters a no contest statement  
24 and if the court finds that the admission or no contest statement is  
25 knowledgeable and voluntary, the court shall proceed without delay to the  
26 placement hearing pursuant to subsection (f).

27 (4) If the child denies the allegations, the court shall determine  
28 whether probable cause exists to hold the child in a secure facility pending  
29 an evidentiary hearing pursuant to subsection (e). After hearing the  
30 evidence, if the court finds that: (A) There is probable cause to believe that  
31 the child has violated an order entered pursuant to subsection (a) without  
32 good cause; and (B) placement in a secure facility is necessary for the  
33 protection of the child or to assure the presence of the child at the  
34 evidentiary hearing pursuant to subsection (e), the court may order the  
35 child held in a secure facility pending the evidentiary hearing.

36 (e) *Evidentiary hearing.* The court shall hold an evidentiary hearing  
37 on an application within 72 hours of the child's being taken into custody.  
38 Notice of the time and place of the hearing shall be given orally or in  
39 writing to the child's parents, the child's legal custodian and the child's  
40 guardian ad litem. At the evidentiary hearing, the court shall determine by  
41 a clear and convincing evidence whether the child has:

42 (1) Violated a court order entered pursuant to subsection (a) without  
43 good cause;

1 (2) been provided at the hearing with the rights enumerated in  
2 subsection (d)(2); and

3 (3) been informed of:

4 (A) The nature and consequences of the proceeding;

5 (B) the right to confront and cross-examine witnesses and present  
6 evidence;

7 (C) the right to have a transcript or recording of the proceedings; and

8 (D) the right to appeal.

9 (f) *Placement.* (1) If the child admits violating the order entered  
10 pursuant to subsection (a) or if, after an evidentiary hearing, the court finds  
11 that the child has violated such an order, the court shall immediately  
12 proceed to a placement hearing. The court may enter an order awarding  
13 custody of the child to:

14 (A) A parent or other legal custodian;

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

18 (C) a youth residential facility; or

19 (D) the secretary, if the secretary does not already have legal custody  
20 of the child.

21 (2) The court may authorize the custodian to place the child in a  
22 secure facility, if the court determines that all other placement options have  
23 been exhausted or are inappropriate, based upon a written report submitted  
24 by the secretary, if the child is in the secretary's custody, or submitted by a  
25 public agency independent of the court and law enforcement, if the child is  
26 in the custody of someone other than the secretary. The report shall detail  
27 the behavior of the child and the circumstances under which the child was  
28 brought before the court and made subject to the order entered pursuant to  
29 subsection (a).

30 (3) The authorization to place the child in a secure facility pursuant to  
31 this subsection shall expire 60 days, inclusive of weekend and legal  
32 holidays, after its issue. The court may grant extensions of such  
33 authorization for two additional periods, each not to exceed 60 days, upon  
34 rehearing pursuant to K.S.A. 38-2256, and amendments thereto.

35 (g) *Payment.* The secretary shall only pay for placement and services  
36 for a child placed in a secure facility pursuant to subsection (f) upon  
37 receipt of a valid court order authorizing secure care placement.

38 (h) *Limitations on facilities used.* Nothing in this section shall  
39 authorize placement of a child in an adult jail or lockup.

40 (i) *Time limits, computation.* Except as otherwise specifically  
41 provided by subsection (f), Saturdays, Sundays, legal holidays, and days  
42 ~~on which~~ when the office of the clerk of the court is not accessible shall  
43 not be counted in computing any time limit imposed by this section.

1       Sec. 9. K.S.A. 38-2271 is hereby amended to read as follows: 38-  
 2 2271. (a) It is presumed in the manner provided in K.S.A. 60-414, and  
 3 amendments thereto, that a parent is unfit by reason of conduct or  
 4 condition—~~which~~ *that* renders the parent unable to fully care for a child, if  
 5 the state establishes, by clear and convincing evidence, that:

6       (1) A parent has previously been found to be an unfit parent in  
 7 proceedings under K.S.A. 38-2266 et seq., and amendments thereto, or  
 8 comparable proceedings under the laws of another jurisdiction;

9       (2) a parent has twice before been convicted of a crime specified in  
 10 article 34, 35, or 36 of chapter 21 of the Kansas Statutes Annotated, prior  
 11 to their repeal, or articles 54, 55 or 56 of chapter 21 of the Kansas Statutes  
 12 Annotated, or K.S.A. 21-6104, 21-6325, 21-6326 or 21-6418 through 21-  
 13 6421, and amendments thereto, or comparable offenses under the laws of  
 14 another jurisdiction, or an attempt or attempts to commit such crimes and  
 15 the victim was under the age of 18 years;

16       (3) on two or more prior occasions a child in the physical custody of  
 17 the parent has been adjudicated a child in need of care as defined by  
 18 K.S.A. 38-2202~~(d)(1), (d)(3), (d)(5)~~*(d)(1)(A), (d)(1)(C), (d)(1)(E) or*~~(d)~~  
 19 ~~(H)~~ *(d)(1)(K)*, and amendments thereto, or comparable proceedings under  
 20 the laws of another jurisdiction;

21       (4) the parent has been convicted of causing the death of another  
 22 child or stepchild of the parent;

23       (5) the child has been in an out-of-home placement, under court order  
 24 for a cumulative total period of one year or longer and the parent has  
 25 substantially neglected or willfully refused to carry out a reasonable plan,  
 26 approved by the court, directed toward reintegration of the child into the  
 27 parental home;

28       (6) (A) the child has been in an out-of-home placement, under court  
 29 order for a cumulative total period of two years or longer; (B) the parent  
 30 has failed to carry out a reasonable plan, approved by the court, directed  
 31 toward reintegration of the child into the parental home; and (C) there is a  
 32 substantial probability that the parent will not carry out such plan in the  
 33 near future;

34       (7) a parent has been convicted of capital murder, K.S.A. 21-3439,  
 35 prior to its repeal, or K.S.A. 21-5401, and amendments thereto, murder in  
 36 the first degree, K.S.A. 21-3401, prior to its repeal, or K.S.A. 21-5402, and  
 37 amendments thereto, murder in the second degree, K.S.A. 21-3402, prior  
 38 to its repeal, or K.S.A. 21-5403, and amendments thereto, voluntary  
 39 manslaughter, K.S.A. 21-3403, prior to its repeal, or K.S.A. 21-5404, and  
 40 amendments thereto, human trafficking or aggravated human trafficking,  
 41 K.S.A. 21-3446 or 21-3447, prior to their repeal, or K.S.A. 21-5426, and  
 42 amendments thereto, or commercial sexual exploitation of a child, K.S.A.  
 43 21-6422, and amendments thereto, or comparable proceedings under the

1 laws of another jurisdiction or, has been adjudicated a juvenile offender  
2 because of an act which, if committed by an adult, would be an offense as  
3 provided in this subsection, and the victim of such murder was the other  
4 parent of the child;

5 (8) a parent abandoned or neglected the child after having knowledge  
6 of the child's birth or either parent has been granted immunity from  
7 prosecution for abandonment of the child under K.S.A. 21-3604(b), prior  
8 to its repeal, or K.S.A. 21-5605(d), and amendments thereto; or

9 (9) a parent has made no reasonable efforts to support or  
10 communicate with the child after having knowledge of the child's birth;

11 (10) a father, after having knowledge of the pregnancy, failed without  
12 reasonable cause to provide support for the mother during the six months  
13 prior to the child's birth;

14 (11) a father abandoned the mother after having knowledge of the  
15 pregnancy;

16 (12) a parent has been convicted of rape, K.S.A. 21-3502, prior to its  
17 repeal, or K.S.A. 21-5503, and amendments thereto, or comparable  
18 proceedings under the laws of another jurisdiction resulting in the  
19 conception of the child; or

20 (13) a parent has failed or refused to assume the duties of a parent for  
21 two consecutive years next preceding the filing of the petition. In making  
22 this determination the court may disregard incidental visitations, contacts,  
23 communications or contributions.

24 (b) The burden of proof is on the parent to rebut the presumption of  
25 unfitness by a preponderance of the evidence. In the absence of proof that  
26 the parent is presently fit and able to care for the child or that the parent  
27 will be fit and able to care for the child in the foreseeable future, the court  
28 shall terminate parental rights in proceedings pursuant to K.S.A. 38-2266  
29 et seq., and amendments thereto.

30 Sec. 10. K.S.A. 23-2215, 23-3207, 38-2232, 38-2242, 38-2260 and  
31 38-2271 and K.S.A. 2025 Supp. 21-5601, 38-2202 and 38-2243 are hereby  
32 repealed.

33 Sec. 11. This act shall take effect and be in force from and after its  
34 publication in the statute book.