

SESSION OF 2025

**SUPPLEMENTAL NOTE ON SUBSTITUTE FOR HOUSE  
BILL NO. 2132**

As Recommended by House Committee on  
Child Welfare and Foster Care

**Brief\***

Sub. for HB 2132 would amend the definition of “neglect” in the Revised Kansas Code for Care of Children (CINC Code) and would make changes concerning when the State may remove a child from the child’s home under the CINC Code.

***Definition of “Neglect”***

The bill would make changes to the definition of “neglect” found in the CINC Code to replace “likelihood of harm” with “substantial risk of serious harm” to make neglect under the CINC Code mean “acts or omissions by a parent, guardian, or person who is responsible for the care of a child resulting in harm to a child, or presenting a substantial risk of serious harm, and the acts or omissions are not due solely to the lack of financial means of the child’s parent, guardian, or person who is responsible for the care of such child.”

The bill would also add a statement to this definition clarifying that “the inability to provide for a child due to inadequate financial resources by a parent, guardian, or person who is responsible for the care of such child shall not be considered neglect for such reason alone.”

Continuing law provides neglect may include circumstances when a parent, guardian, or person

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\*Supplemental notes are prepared by the Legislative Research Department and do not express legislative intent. The supplemental note and fiscal note for this bill may be accessed on the Internet at <https://klrd.gov/>

responsible for a child fails to provide items necessary to sustain life or health of the child, fails to provide adequate supervision of a child or to remove a child from situations that results in bodily injury, or fails to use resources available to treat a diagnosed medical condition. The bill would amend this language to provide that neglect may be found when there has been an unreasonable failure or refusal by a parent in one of the above-mentioned circumstances. The bill would also replace a reference to “likelihood of harm” with “substantial risk of serious harm” in this section.

Finally, the definition would add another clarifying statement that the term “neglect” includes the cumulative effects of a pattern of conduct, behavior, or inaction on the part of the parent, guardian, or person who is responsible for the care of a child.

#### ***Child in Need of Care Petition; Removal of Child From Child’s Home***

The bill would amend law concerning what facts must be specified in a Child in Need of Care (CINC) petition requesting removal of the child from the child’s home. Continuing law provides that the petition must specify the facts demonstrating that allowing the child to remain in the home would be contrary to the welfare of the child or that placement is in the best interests of the child, and the child is likely to sustain harm if not removed from the home. The bill would replace “is likely to sustain harm” with “there is substantial risk of serious harm,” and would specify that the facts demonstrating serious harm could not be based solely on any one the following factors:

- Community or family poverty;
- Isolation;
- Age of the parent;
- Crowded or inadequate housing;
- Non-felony drug crime without harm;

- Mental or behavioral health conditions;
- Disability or special needs of the parent or child;
- A finding of non-compliance with compulsory school attendance; or
- One of the facts listed above, when it is co-occurring with community or family poverty.

The bill would also specify that including serious harm to the child in the petition may consider that such harm outweighs the harm to the child as a result of the requested removal.

### ***Police Protective Custody***

The bill would amend law concerning when a child under 18 may be taken into custody by law enforcement pursuant to the CINC Code.

Under current law, a law enforcement officer must take a child under 18 into custody under certain circumstances, including when the officer reasonably believes the child will be harmed if not immediately removed from the place or residence where the child was found. The bill would make this removal discretionary, require the law enforcement officer to reasonably believe the child will be seriously harmed if not removed, and would require the law enforcement officer to explore other options to separate the child from the source of harm before removal.

The bill would require the Secretary for Children and Families (Secretary) to provide an electronic means of communication for a responding law enforcement officer to refer a child who may be a victim of abuse or neglect to the Secretary and would require the Secretary to determine whether to initiate an investigation of abuse or neglect within 24 hours of the referral.

### ***Factors to Be Considered in Orders for Temporary Custody***

For proceedings filed on and after January 1, 2026, the bill would require the court to consider the following factors before making an order for temporary custody of a child pursuant to the CINC Code:

- Whether the participation by the parents, guardians, or legal custodians in any prevention services would prevent or eliminate the need for removal;
  - If so, the court would be required to inquire if the parent is willing to participate in such services. The bill would prohibit the court from ordering participation against a parent's objection, but the parent could consult with counsel prior to making a decision whether to agree to the proposed prevention services as a condition of having the child return home or remain in the care of the parent; and
- Whether issuing a temporary protection order directing the removal of a person or persons from the child's home would prevent the need for removal of the child.

The bill would specify that if a parent agrees to participate in court-ordered prevention services that would prevent or eliminate the need for removal, the court would be required to place the child with such parent.

The bill would require the Secretary to update agency policies in compliance with the new factors to be considered by the court and to submit copies of such policies to the Joint Committee on Child Welfare System Oversight on or before January 1, 2026.

## **Background**

The bill was introduced by the House Committee on Child Welfare and Foster Care at the request of the Secretary.

### ***House Committee on Child Welfare and Foster Care***

In the House Committee hearing, **proponent** testimony was provided by the Child Advocate, a private citizen, and representatives of the Children's Alliance of Kansas, Department for Children and Families, Kansas Appleseed Center for Law and Justice, and Kansas Children's Service League. The proponents generally stated the intent of the legislation is to ensure children are not being removed from their homes or adjudicated a child in need of care solely due to poverty.

Written-only proponent testimony was provided by a representative of Kansas Action for Children and four private citizens.

**Opponent** testimony was provided by a representative of the Kansas Association of Chiefs of Police, Kansas Peace Officers Association, and Kansas Sheriffs Association, two representatives of the Kansas County and District Attorneys Association, the Shawnee County District Attorney, and a representative of the Shawnee County District Attorney's Office. The opponents generally voiced concerns regarding the State's ability to remove children living in dangerous conditions pursuant to the proposed changes to the definition of neglect.

Written-only opponent testimony was provided by the Johnson County District Attorney and an 18<sup>th</sup> Judicial District Court judge.

No other testimony was provided.

On February 11, 2025, the bill was withdrawn from the House Committee on Child Welfare and Foster Care and referred to the House Committee on Federal and State Affairs.

On February 13, 2025, the bill was withdrawn from the House Committee on Federal and State Affairs and re-referred to the House Committee on Child Welfare and Foster Care.

The House Committee on Child Welfare and Foster Care recommended a substitute bill incorporating amendments to:

- Modify the definition of “neglect” and update references to the modified definition throughout the bill;
- Replace certain references to “imminent harm” with “substantial risk of serious harm”;
- Remove and replace certain factors that may be used to demonstrate serious harm in a petition requesting removal of a child from the home;
- Specify that including serious harm to the child in a petition may be evidence that the harm outweighs the harm associated with removal; and
- Clarify that singular facts demonstrating harm in a petition that would prohibit a child’s removal may co-occur with community or family poverty.

### **Fiscal Information**

[*Note:* The fiscal information for HB 2132 is applicable to the substitute bill.]

According to the fiscal note prepared by the Division of the Budget on the bill, as introduced, the Department for

Children and Families indicates that enactment of the bill would have no fiscal effect on the agency.

The Office of Judicial Administration indicates that enactment of the bill could have a fiscal effect on expenditures of the Judicial Branch. The bill's provisions require additional findings and items for the court to consider in certain cases. Nevertheless, until the courts have had an opportunity to operate under the provisions of the bill, an accurate estimate of the fiscal effect on expenditures by the Judicial Branch cannot be given. The bill would not have a fiscal effect on revenues to the Judicial Branch or State General Fund.

Any fiscal effect associated with the bill is not reflected in *The FY 2026 Governor's Budget Report*.

Children and minors; child in need of care; Revised Kansas Code for Care of Children; abuse or neglect; definitions; police protective custody; removal; child welfare