

1 **[As Amended by House Committee of the Whole]**

2
3 **As Amended by House Committee**

4 *Session of 2001*

5
6 **HOUSE BILL No. 2023**

7
8 By Joint Committee on Corrections and Juvenile Justice Oversight

9
10 1-10

11
12 AN ACT concerning juveniles **children**; relating to **nonattendance at**
13 **school attendance**; amending K.S.A. ~~38-1502~~ and ~~38-1602~~ **38-1563**
14 and K.S.A. 2000 Supp. 72-1113 and repealing the existing sections;
15 also repealing K.S.A. ~~38-1502d~~.

16
17 *Be it enacted by the Legislature of the State of Kansas:*

18 Section 1. ~~K.S.A. 38-1502 is hereby amended to read as follows: 38-~~
19 ~~1502. As used in this code, unless the context otherwise indicates:~~

20 — (a) “Child in need of care” means a person less than 18 years of age
21 who:

22 — (1) ~~Is without adequate parental care, control or subsistence and the~~
23 ~~condition is not due solely to the lack of financial means of the child’s~~
24 ~~parents or other custodian;~~

25 — (2) ~~is without the care or control necessary for the child’s physical,~~
26 ~~mental or emotional health;~~

27 — (3) ~~has been physically, mentally or emotionally abused or neglected~~
28 ~~or sexually abused;~~

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

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

31 — (6) ~~while less than 14 years of age, is not attending school as required~~
32 ~~by K.S.A. 72-977 or 72-1111, and amendments thereto;~~

33 — (7) ~~except in the case of a violation of K.S.A. 41-727, subsection (j)~~
34 ~~of K.S.A. 74-8810 or subsection (m) or (n) of K.S.A. 79-3321, and amend-~~
35 ~~ments thereto, or, except as provided in subsection (a)(12) of K.S.A. 21-~~
36 ~~4204a and amendments thereto, does an act which, when committed by~~
37 ~~a person under 18 years of age, is prohibited by state law, city ordinance~~
38 ~~or county resolution but which is not prohibited when done by an adult;~~

39 — (8) ~~while less than 10 years of age, commits any act which if done by~~
40 ~~an adult would constitute the commission of a felony or misdemeanor as~~
41 ~~defined by K.S.A. 21-3105 and amendments thereto;~~

42 — (9) ~~is willfully and voluntarily absent from the child’s home without~~
43 ~~the consent of the child’s parent or other custodian;~~

1 ~~—(10) is willfully and voluntarily absent at least a second time from a~~
2 ~~court ordered or designated placement, or a placement pursuant to court~~
3 ~~order, if the absence is without the consent of the person with whom the~~
4 ~~child is placed or, if the child is placed in a facility, without the consent~~
5 ~~of the person in charge of such facility or such person's designee;~~

6 ~~—(11) has been residing in the same residence with a sibling or another~~
7 ~~person under 18 years of age, who has been physically, mentally or emo-~~
8 ~~tionally abused or neglected, or sexually abused; or~~

9 ~~—(12) while less than 10 years of age commits the offense defined in~~
10 ~~K.S.A. 21 4204a and amendments thereto.~~

11 ~~—(b) “Physical, mental or emotional abuse” means the infliction of~~
12 ~~physical, mental or emotional injury or the causing of a deterioration of~~
13 ~~a child and may include, but shall not be limited to, maltreatment or~~
14 ~~exploiting a child to the extent that the child's health or emotional well-~~
15 ~~being is endangered.~~

16 ~~—(c) “Sexual abuse” means any act committed with a child which is~~
17 ~~described in article 35, chapter 21 of the Kansas Statutes Annotated and~~
18 ~~those acts described in K.S.A. 21 3602 or 21 3603, and amendments~~
19 ~~thereto, regardless of the age of the child.~~

20 ~~—(d) “Parent,” when used in relation to a child or children, includes a~~
21 ~~guardian, conservator and every person who is by law liable to maintain,~~
22 ~~care for or support the child.~~

23 ~~—(e) “Interested party” means the state, the petitioner, the child, any~~
24 ~~parent, any *grandparent* and any person found to be an interested party~~
25 ~~pursuant to K.S.A. 38 1541 and amendments thereto.~~

26 ~~—(f) “Law enforcement officer” means any person who by virtue of~~
27 ~~office or public employment is vested by law with a duty to maintain~~
28 ~~public order or to make arrests for crimes, whether that duty extends to~~
29 ~~all crimes or is limited to specific crimes.~~

30 ~~—(g) “Youth residential facility” means any home, foster home or struc-~~
31 ~~ture which provides 24 hour a day care for children and which is licensed~~
32 ~~pursuant to article 5 of chapter 65 of the Kansas Statutes Annotated.~~

33 ~~—(h) “Shelter facility” means any public or private facility or home~~
34 ~~other than a juvenile detention facility that may be used in accordance~~
35 ~~with this code for the purpose of providing either temporary placement~~
36 ~~for the care of children in need of care prior to the issuance of a dispos-~~
37 ~~itional order or longer term care under a dispositional order.~~

38 ~~—(i) “Juvenile detention facility” means any secure public or private~~
39 ~~facility used for the lawful custody of accused or adjudicated juvenile~~
40 ~~offenders which must not be a jail.~~

41 ~~—(j) “Adult correction facility” means any public or private facility, se-~~
42 ~~ecure or nonsecure, which is used for the lawful custody of accused or~~
43 ~~convicted adult criminal offenders.~~

1 —(k)—“Secure facility” means a facility which is operated or structured
2 so as to ensure that all entrances and exits from the facility are under the
3 exclusive control of the staff of the facility, whether or not the person
4 being detained has freedom of movement within the perimeters of the
5 facility, or which relies on locked rooms and buildings, fences or physical
6 restraint in order to control behavior of its residents. No secure facility
7 shall be in a city or county jail.

8 —(l)—“Ward of the court” means a child over whom the court has ac-
9 quired jurisdiction by the filing of a petition pursuant to this code and
10 who continues subject to that jurisdiction until the petition is dismissed
11 or the child is discharged as provided in K.S.A. 38-1503 and amendments
12 thereto.

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

18 —(n)—“Placement” means the designation by the individual or agency
19 having custody of where and with whom the child will live.

20 —(o)—“Secretary” means the secretary of social and rehabilitation
21 services.

22 —(p)—“Relative” means a person related by blood, marriage or adoption
23 but, when referring to a relative of a child’s parent, does not include the
24 child’s other parent.

25 —(q)—“Court appointed special advocate” means a responsible adult
26 other than an attorney guardian *ad litem* who is appointed by the court
27 to represent the best interests of a child, as provided in K.S.A. 38-1505a
28 and amendments thereto, in a proceeding pursuant to this code.

29 —(r)—“Multidisciplinary team” means a group of persons, appointed by
30 the court or by the state department of social and rehabilitation services
31 under K.S.A. 38-1523a and amendments thereto, which has knowledge
32 of the circumstances of a child in need of care. A multidisciplinary team
33 may serve as a community services team.

34 —(s)—“Jail” means:

35 —(1)—An adult jail or lockup; or

36 —(2)—a facility in the same building or on the same grounds as an adult
37 jail or lockup, unless the facility meets all applicable standards and licen-
38 sure requirements under law and there is (A) total separation of the ju-
39 venile and adult facility spatial areas such that there could be no haphaz-
40 ard or accidental contact between juvenile and adult residents in the
41 respective facilities; (B) total separation in all juvenile and adult program
42 activities within the facilities, including recreation, education, counseling,
43 health care, dining, sleeping, and general living activities; and (C) separate

- 1 juvenile and adult staff, including management, security staff and direct
2 care staff such as recreational, educational and counseling.
- 3 —(t) “Kinship care” means the placement of a child in the home of the
4 child’s relative or in the home of another adult with whom the child or
5 the child’s parent already has a close emotional attachment.
- 6 —(u) “Juvenile intake and assessment worker” means a responsible
7 adult authorized to perform intake and assessment services as part of the
8 intake and assessment system established pursuant to K.S.A. 75-7023, and
9 amendments thereto.
- 10 —(v) “Abandon” means to forsake, desert or cease providing care for
11 the child without making appropriate provisions for substitute care.
- 12 —(w) “Permanent guardianship” means a judicially created relationship
13 between child and caretaker which is intended to be permanent and self-
14 sustaining without ongoing state oversight or intervention by the secre-
15 tary. The permanent guardian stands in loco parentis and exercises all the
16 rights and responsibilities of a parent. A permanent guardian may be
17 appointed after termination of parental rights or without termination of
18 parental rights, if the parent consents and agrees to the appointment of
19 a permanent guardian. Upon appointment of a permanent guardian, the
20 child shall be discharged from the custody of the secretary.
- 21 —(x) “Aggravated circumstances” means the abandonment, torture,
22 chronic abuse, sexual abuse or chronic, life threatening neglect of a child.
- 23 —(y) “Permanency hearing” means a notice and opportunity to be
24 heard is provided to interested parties, foster parents, preadoptive parents
25 or relatives providing care for the child. The court, after consideration of
26 the evidence, shall determine whether progress toward the case plan goal
27 is adequate or reintegration is a viable alternative, or if the case should
28 be referred to the county or district attorney for filing of a petition to
29 terminate parental rights or to appoint a permanent guardian.
- 30 —(z) “Extended out of home placement” means a child has been in the
31 custody of the secretary and placed with neither parent for 15 of the most
32 recent 22 months beginning 60 days after the date at which a child in the
33 custody of the secretary was removed from the home.
- 34 —(aa) “Educational institution” means all schools at the elementary and
35 secondary levels.
- 36 —(bb) “Educator” means any administrator, teacher or other profes-
37 sional or paraprofessional employee of an educational institution who has
38 exposure to a pupil specified in subsection (a) of K.S.A. 2000 Supp. 72-
39 89b03 and amendments thereto.
- 40 —(cc) “Neglect” means acts or omissions by a parent, guardian or per-
41 son responsible for the care of a child resulting in harm to a child or
42 presenting a likelihood of harm and the acts or omissions are not due
43 solely to the lack of financial means of the child’s parents or other cus-

1 todian. Neglect may include but shall not be limited to:

2 —(1) Failure to provide the child with food, clothing or shelter neces-
3 sary to sustain the life or health of the child;

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

8 —(3) failure to use resources available to treat a diagnosed medical
9 condition if such treatment will make a child substantially more com-
10 fortable, reduce pain and suffering, correct or substantially diminish a
11 crippling condition from worsening. A parent legitimately practicing re-
12 ligious beliefs who does not provide specified medical treatment for a
13 child because of religious beliefs shall not for that reason be considered
14 a negligent parent; however, this exception shall not preclude a court from
15 entering an order pursuant to subsection (a)(2) of K.S.A. 38 1513, and
16 amendments thereto.

17 —(dd) “Community services team” means a group of persons, ap-
18 pointed by the court or by the state department of social and rehabilita-
19 tion services for the purpose of assessing the needs of a child who is
20 alleged to be a child in need of care.

21 —Sec. 2. K.S.A. 38 1602 is hereby amended to read as follows: 38-
22 1602. As used in this code, unless the context otherwise requires:

23 —(a) “Juvenile” means a person 10 or more years of age but less than
24 18 years of age.

25 —(b) “Juvenile offender” means a person who commits an offense
26 while a juvenile which if committed by an adult would constitute the
27 commission of a felony or misdemeanor as defined by K.S.A. 21 3105,
28 and amendments thereto, *who while 14 or more years of age during the*
29 *dates of the unexcused absences, is not attending school, as required by*
30 *K.S.A. 72 977 or 72 1111, and amendments thereto, or who violates the*
31 *provisions of K.S.A. 21 4204a or K.S.A. 41 727 or subsection (j) of K.S.A.*
32 *74 8810, and amendments thereto, but does not include:*

33 —(1) A person 14 or more years of age who commits a traffic offense,
34 as defined in subsection (d) of K.S.A. 8 2117, and amendments thereto;

35 —(2) a person 16 years of age or over who commits an offense defined
36 in chapter 32 of the Kansas Statutes Annotated;

37 —(3) a person under 18 years of age who previously has been:

38 —(A) Convicted as an adult under the Kansas code of criminal
39 procedure;

40 —(B) sentenced as an adult under the Kansas code of criminal proce-
41 dure following termination of status as an extended jurisdiction juvenile
42 pursuant to K.S.A. 38 16,126, and amendments thereto; or

43 —(C) convicted or sentenced as an adult in another state or foreign

1 jurisdiction under substantially similar procedures described in K.S.A. 38-
2 1636, and amendments thereto, or because of attaining the age of majority
3 designated in that state or jurisdiction.

4 —(c) “Parent,” when used in relation to a juvenile or a juvenile of
5 fender, includes a guardian, conservator and every person who is by law
6 liable to maintain, care for or support the juvenile.

7 —(d) “Law enforcement officer” means any person who by virtue of
8 that person’s office or public employment is vested by law with a duty to
9 maintain public order or to make arrests for crimes, whether that duty
10 extends to all crimes or is limited to specific crimes.

11 —(e) “Youth residential facility” means any home, foster home or struc-
12 ture which provides twenty four hour a day care for juveniles and which
13 is licensed pursuant to article 5 of chapter 65 of the Kansas Statutes
14 Annotated.

15 —(f) “Juvenile detention facility” means any secure public or private
16 facility which is used for the lawful custody of accused or adjudicated
17 juvenile offenders and which shall not be a jail.

18 —(g) “Juvenile correctional facility” means a facility operated by the
19 commissioner for juvenile offenders.

20 —(h) “Warrant” means a written order by a judge of the court directed
21 to any law enforcement officer commanding the officer to take into cus-
22 tody the juvenile named or described therein.

23 —(i) “Commissioner” means the commissioner of juvenile justice.

24 —(j) “Jail” means:

25 —(1) An adult jail or lockup; or

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

36 —(k) “Court appointed special advocate” means a responsible adult,
37 other than an attorney appointed pursuant to K.S.A. 38-1606 and amend-
38 ments thereto, who is appointed by the court to represent the best inter-
39 ests of a child, as provided in K.S.A. 38-1606a, and amendments thereto,
40 in a proceeding pursuant to this code.

41 —(l) “Juvenile intake and assessment worker” means a responsible
42 adult authorized to perform intake and assessment services as part of the
43 intake and assessment system established pursuant to K.S.A. 75-7023, and

1 amendments thereto.

2 —(m)—“Institution” means the following institutions: The Atchison ju-
3 venile correctional facility, the Beloit juvenile correctional facility, the
4 Larned juvenile correctional facility and the Topeka juvenile correctional
5 facility.

6 —(n)—“Sanctions house” means a facility which is operated or structured
7 so as to ensure that all entrances and exits from the facility are under the
8 exclusive control of the staff of the facility, whether or not the person
9 being detained has freedom of movement within the perimeters of the
10 facility, or which relies on locked rooms and buildings, fences, or physical
11 restraint in order to control the behavior of its residents. Upon an order
12 from the court, a licensed juvenile detention facility may serve as a sanc-
13 tions house.

14 —(o)—“Sentencing risk assessment tool” means an instrument adminis-
15 tered to juvenile offenders which delivers a score, or group of scores,
16 describing, but not limited to describing, the juvenile’s potential risk to
17 the community.

18 —(p)—“Educational institution” means all schools at the elementary and
19 secondary levels.

20 —(q)—“Educator” means any administrator, teacher or other profes-
21 sional or paraprofessional employee of an educational institution who has
22 exposure to a pupil specified in subsection (a)(1) through (5) of K.S.A.
23 2000 Supp. 72-89b03, and amendments thereto.

24 **Section 1. K.S.A. 38-1563 is hereby amended to read as fol-**
25 **lows: 38-1563. (a) After consideration of any evidence offered re-**
26 **lating to disposition, the court may retain jurisdiction and place**
27 **the child in the custody of the child’s parent subject to terms and**
28 **conditions which the court prescribes to assure the proper care**
29 **and protection of the child, including supervision of the child and**
30 **the parent by a court services officer, or may order the child and**
31 **the parent to participate in programs operated by the secretary or**
32 **another appropriate individual or agency. The terms and condi-**
33 **tions may require any special treatment or care which the child**
34 **needs for the child’s physical, mental or emotional health.**

35 **(b) The duration of any period of supervision or other terms**
36 **or conditions shall be for an initial period of no more than 12**
37 **months. The court, at the expiration of that period, upon a hearing**
38 **and for good cause shown, may make successive extensions of the**
39 **supervision or other terms or conditions for up to 12 months at a**
40 **time.**

41 **(c) The court may order the child and the parents of any child**
42 **who has been adjudged a child in need of care to attend counseling**
43 **sessions as the court directs. The expense of the counseling may**

1 be assessed as an expense in the case. No mental health center
2 shall charge a greater fee for court-ordered counseling than the
3 center would have charged to the person receiving counseling if
4 the person had requested counseling on the person's own
5 initiative.

6 (d) If the court finds that placing the child in the custody of a
7 parent will not assure protection from physical, mental or emo-
8 tional abuse or neglect or sexual abuse or is contrary to the welfare
9 of the child or that placement would be in the best interests of the
10 child, the court shall enter an order awarding custody of the child,
11 until the further order of the court, to one of the following:

12 (1) A relative of the child or a person with whom the child has
13 close emotional ties;

14 (2) any other suitable person;

15 (3) a shelter facility; or

16 (4) the secretary.

17 If the child is adjudged to be a child in need of care, the court
18 shall not place the child in the custody of the secretary if the court
19 has received from the secretary, written documentation of the
20 services and/or community services plan offered or delivered to
21 prevent the need for such custody unless the court finds that the
22 services documented by the secretary are insufficient to protect
23 the safety of the child and that being in the custody of the parent
24 with such services in place is contrary to the welfare or that place-
25 ment is in the best interests of the child. The court shall have the
26 authority to require any person or entity agreeing to participate
27 in the plan to perform as set out in the plan. The secretary shall
28 present to the court in writing the specific actions taken to main-
29 tain the family unit and prevent the unnecessary removal of the
30 child from the child's home.

31 In making such a custody order, the court shall give preference,
32 to the extent that the court finds it is in the best interests of the
33 child, first to granting custody to a relative of the child and second
34 to granting custody of the child to a person with whom the child
35 has close emotional ties. If the court has awarded legal custody
36 based on the finding specified by this subsection, the legal custo-
37 dian shall not return the child to the home of that parent without
38 the written consent of the court.

39 (e) When the custody of the child is awarded to the secretary:

40 (1) The court may recommend to the secretary where the child
41 should be placed.

42 (2) The secretary shall notify the court in writing of any place-
43 ment of the child or, within 10 days of the order awarding the

1 **custody of the child to the secretary, any proposed placement of**
2 **the child, whichever occurs first.**

3 **(3) The court may determine if such placement is contrary to**
4 **the welfare or in the best interests of the child, and if the court**
5 **determines that such placement is not in the best interests of the**
6 **child, the court shall notify the secretary who shall then make an**
7 **alternative placement subject to the procedures established in this**
8 **paragraph. In determining if such placement is in the best interests**
9 **of the child, the court, after providing the parties with an oppor-**
10 **tunity to be heard, shall consider the health and safety needs of**
11 **the child and the resources available to meet the needs of children**
12 **in the custody of the secretary.**

13 **(4) When the secretary provides the court with a plan to pro-**
14 **vide services to a child or family which the court finds is in place**
15 **and which will assure the safety of the child, the court shall ap-**
16 **prove the return of the child to the child's home. The court shall**
17 **have the authority to require any person or entity agreeing to par-**
18 **ticipate in the plan to perform as set out in the plan.**

19 **(f) If custody of a child is awarded under this section to a per-**
20 **son other than the child's parent, the court may grant any individ-**
21 **ual reasonable rights to visit the child upon motion of the individ-**
22 **ual and a finding that the visitation rights would be in the best**
23 **interests of the child.**

24 **(g) If the court issues an order of custody pursuant to this sec-**
25 **tion, the court may enter an order restraining any alleged perpe-**
26 **trator of physical, sexual, mental or emotional abuse of the child**
27 **from residing in the child's home; visiting, contacting, harassing**
28 **or intimidating the child, other family member or witness; or at-**
29 **tempting to visit, contact, harass or intimidate the child, other fam-**
30 **ily member or witness.**

31 **(h) The court shall not enter an order removing a child from**
32 **the custody of a parent pursuant to this section unless the court**
33 **first finds from evidence presented by the petitioner that reason-**
34 **able efforts have been made to maintain the family unit and pre-**
35 **vent the unnecessary removal of the child from the child's home**
36 **or that reasonable efforts are not necessary because reintegration**
37 **is not a viable alternative; or that an emergency exists which**
38 **threatens the safety of the child and that allowing the child to re-**
39 **main in the home is contrary to the welfare of the child or that**
40 **placement would be in the best interest of the child. If the child is**
41 **placed in the custody of the secretary, the court shall provide the**
42 **secretary with a copy of any orders entered for the purpose of**
43 **documenting these orders within 10 days of making the order.**

1 Reintegration may not be a viable alternative when the: (1) Parent
2 has been found by a court to have committed murder in the first
3 degree, K.S.A. 21-3401, and amendments thereto, murder in the
4 second degree, K.S.A. 21-3402, and amendments thereto, capital
5 murder, K.S.A. 21-3439, and amendments thereto, voluntary man-
6 slaughter, K.S.A. 21-3403, and amendments thereto, or violated a
7 law of another state which prohibits such murder or manslaughter
8 of a child; (2) parent aided or abetted, attempted, conspired or
9 solicited to commit such murder or voluntary manslaughter of a
10 child as provided in subsection (h)(1); (3) parent committed a fel-
11 ony battery that resulted in bodily injury to the child or another
12 child; (4) parent has subjected the child or another child to aggra-
13 vated circumstances as defined in K.S.A. 38-1502, and amend-
14 ments thereto; (5) parental rights of the parent to another child
15 have been terminated involuntarily or (6) the child has been in
16 extended out of home placement as defined in K.S.A. 38-1502, and
17 amendments thereto. Such findings shall be included in any order
18 entered by the court.

19 (i) In addition to or in lieu of any other order authorized by
20 this section, if a child is adjudged to be a child in need of care by
21 reason of a violation of the uniform controlled substances act
22 (K.S.A. 65-4101 *et seq.*, and amendments thereto, or K.S.A. 41-719,
23 ~~41-804, 41-2719, 65-4152, 65-4153, 65-4154~~ or 65-4155, or K.S.A.
24 *2000 Supp. 8-1599*, and amendments thereto, the court shall order
25 the child to submit to and complete an alcohol and drug evaluation
26 by a community-based alcohol and drug safety action program cer-
27 tified pursuant to K.S.A. 8-1008, and amendments thereto, and to
28 pay a fee not to exceed the fee established by that statute for such
29 evaluation. If the court finds that the child and those legally liable
30 for the child's support are indigent, the fee may be waived. In no
31 event shall the fee be assessed against the secretary or the de-
32 partment of social and rehabilitation services.

33 (j) In addition to any other order authorized by this section, if
34 child support has been requested and the parent or parents have
35 a duty to support the child, the court may order one or both par-
36 ents to pay child support and, when custody is awarded to the
37 secretary, the court shall order one or both parents to pay child
38 support. The court shall determine, for each parent separately,
39 whether the parent is already subject to an order to pay support
40 for the child. If the parent is not presently ordered to pay support
41 for any child who is a ward of the court and the court has personal
42 jurisdiction over the parent, the court shall order the parent to pay
43 child support in an amount determined under K.S.A. 38-1595, and

1 **amendments thereto. Except for good cause shown, the court shall**
2 **issue an immediate income withholding order pursuant to K.S.A.**
3 **23-4,105 et seq., and amendments thereto, for each parent ordered**
4 **to pay support under this subsection, regardless of whether a payor**
5 **has been identified for the parent. A parent ordered to pay child**
6 **support under this subsection shall be notified, at the hearing or**
7 **otherwise, that the child support order may be registered pursuant**
8 **to K.S.A. 38-1597, and amendments thereto. The parent shall also**
9 **be informed that, after registration, the income withholding order**
10 **may be served on the parent's employer without further notice to**
11 **the parent and the child support order may be enforced by any**
12 **method allowed by law. Failure to provide this notice shall not**
13 **affect the validity of the child support order.**

14 *(k) If a child is found to be a child in need of care pursuant to sub-*
15 *section (a)(6) of K.S.A. 38-1502, and amendments thereto, in addition to*
16 *the dispositions authorized by the foregoing subsections of this section,*
17 *the court may:*

18 *(1) Place the child under a house arrest program administered by the*
19 *court pursuant to K.S.A. 21-4603b, and amendments thereto;*

20 *(2) order the child to participate in a program of education offered*
21 *by a local board of education including placement in an alternative edu-*
22 *cational program approved by the local board of education;*

23 *(3) suspend or restrict the child's driving privileges;*

24 *(4) order the child or parents, or both, to participate in a tutoring*
25 *program;*

26 *(5) order the child or parent, or both, to pay a fine not to exceed \$250.*

27 **Sec. ~~3~~ 2.** K.S.A. 2000 Supp. 72-1113 is hereby amended to read as
28 follows: 72-1113. (a) Each board of education shall designate one or more
29 employees who shall report to the secretary of social and rehabilitation
30 services, or a designee thereof, or to the appropriate county or district
31 attorney pursuant to an agreement as provided in this section, all cases
32 of children who are less than 13 years of age[, **enrolled in a school**
33 **under the jurisdiction of the board of education,**] and are not at-
34 tending school as required by law, and to the appropriate county or dis-
35 trict attorney, or a designee thereof, all cases of children who are 13 or
36 more years of age but less than 18 years of age[, **enrolled in a school**
37 **under the jurisdiction of the board of education,**] and are not at-
38 tending school as required by law. The designation shall be made no later
39 than September 1 of each school year and shall be certified no later than
40 10 days thereafter by the board of education to the secretary of social and
41 rehabilitation services, or the designee thereof, to the county or district
42 attorney, or the designee thereof, and to the commissioner of education.
43 The commissioner of education shall compile and maintain a list of the

1 designated employees of each board of education. The local area office
2 of the department of social and rehabilitation services may enter into an
3 agreement with the appropriate county or district attorney to provide that
4 the designated employees of such board of education shall make the re-
5 port as provided in this section for all cases of children who are less than
6 13 years of age and are not attending school as provided by law to the
7 county or district attorney in lieu of the secretary, or the secretary's de-
8 signee. If such agreement is made, the county or district attorney shall
9 carry out all duties as otherwise provided by this subsection conferred on
10 the secretary or the secretary's designee. A copy of such agreement shall
11 be provided to the director of such area office of the department of social
12 and rehabilitation services and to the school districts affected by the
13 agreement.

14 (b) Whenever a child is required by law to attend school, and the
15 **[board of education of the school district in which the child resides**
16 **has knowledge that the]** child is not enrolled in a public or nonpublic
17 school, the child shall be considered to be not attending school as re-
18 quired by law and a report thereof shall be made in accordance with the
19 provisions of subsection (a) by a designated employee of the board of
20 education of the school district in which the child resides. The provisions
21 of this subsection are subject to the provisions of subsection (d).

22 (c) (1) Whenever a child is required by law to attend school and is
23 enrolled in school, and the child is inexcusably absent therefrom on either
24 three consecutive school days or five school days in any semester or seven
25 school days in any school year, whichever of the foregoing occurs first,
26 the child shall be considered to be not attending school as required by
27 law. A child is inexcusably absent from school if the child is absent there-
28 from all or a significant part of a school day without a valid excuse ac-
29 ceptable to the school employee designated by the board of education to
30 have responsibility for the school attendance of such child. ~~As used in this~~
31 ~~section, "significant part of a school day" means an absence from 15% or~~
32 ~~more of classes scheduled for the child on that particular school day.~~

33 (2) Each board of education shall adopt rules for determination of
34 valid excuse for absence from school and for determination of what shall
35 constitute a "significant part of a school day" for the purpose of this
36 section.

37 (3) Each board of education shall designate one or more employees,
38 who shall each be responsible for determining the acceptability and va-
39 lidity of offered excuses for absence from school of specified children, so
40 that a designee is responsible for making such determination for each
41 child enrolled in school.

42 (4) Whenever a determination is made in accordance with the pro-
43 visions of this subsection that a child is not attending school as required

1 by law, the designated employee who is responsible for such determina-
2 tion shall make a report thereof in accordance with the provisions of
3 subsection (a).

4 (5) The provisions of this subsection are subject to the provisions of
5 subsection (d).

6 **(6) Each board of education shall adopt a truancy plan for stu-**
7 **dents enrolled in elementary and secondary schools under the con-**
8 **trol of such board of education. Each board of education shall im-**
9 **plement and enforce the plan with the goal of reducing truancy in**
10 **such district. Annually such plan and truancy reduction figures**
11 **shall be submitted to the state board of education. Annually on or**
12 **before February 1, the state board of education shall compile a**
13 **report of truancy plans and statistics regarding truancy reductions**
14 **pursuant to this section and present such report to the standing**
15 **house of representative and senate education committees.**

16 (d) (1) Prior to making any report under this section that a child is
17 not attending school as required by law, the designated employee of the
18 board of education shall serve written notice thereof, by personal delivery
19 or by first class mail, upon a parent or person acting as parent of the child.
20 The notice shall inform the parent or person acting as parent that con-
21 tinued failure of the child to attend school without a valid excuse will
22 result in a report being made to the secretary of social and rehabilitation
23 services or to the county or district attorney. Upon failure, on the school
24 day next succeeding personal delivery of the notice or within three school
25 days after the notice was mailed, of attendance at school by the child or
26 of an acceptable response, as determined by the designated employee, to
27 the notice by a parent or person acting as parent of the child, the desig-
28 nated employee shall make a report thereof in accordance with the pro-
29 visions of subsection (a). The designated employee shall submit with the
30 report a certificate verifying the manner in which notice was provided to
31 the parent or person acting as parent.

32 (2) Whenever a law enforcement officer assumes temporary custody
33 of a child who is found away from home or school without a valid excuse
34 during the hours school is actually in session, and the law enforcement
35 officer delivers the child to the school in which the child is enrolled or to
36 a location designated by the school in which the child is enrolled to ad-
37 dress truancy issues, the designated employee of the board of education
38 shall serve notice thereof upon a parent or person acting as parent of the
39 child. The notice may be oral or written and shall inform the parent or
40 person acting as parent of the child that the child was absent from school
41 without a valid excuse and was delivered to school by a law enforcement
42 officer.

43 (e) Whenever the secretary of social and rehabilitation services re-

1 ceives a report required under this section, the secretary shall investigate
2 the matter. If, during the investigation, the secretary determines that the
3 reported child is not attending school as required by law, the secretary
4 shall institute proceedings under the code for care of children. If, during
5 the investigation, the secretary determines that a criminal prosecution
6 should be considered, the secretary shall make a report of the case to the
7 appropriate law enforcement agency.

8 (f) Whenever a county or district attorney receives a report required
9 under this section, the county or district attorney shall investigate the
10 matter. If, during the investigation, the county or district attorney deter-
11 mines that the reported child is not attending school as required by law,
12 the county or district attorney shall prepare and file a petition alleging
13 that the child is a child in need of care. If, during the investigation, the
14 county or district attorney determines that a criminal prosecution is nec-
15 essary, the county or district attorney shall commence such action.

16 (g) As used in this section, “board of education” means the board of
17 education of a school district or the governing authority of a nonpublic
18 school. The provisions of this act shall apply to both public and nonpublic
19 schools.

20 ~~Sec. 4. 3. K.S.A. 38-1502, 38-1502d and 38-1602~~ **38-1563** and
21 K.S.A. 2000 Supp. 72-1113 are hereby repealed.

22 ~~Sec. 5. 4.~~ This act shall take effect and be in force from and after
23 its publication in the statute book.

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