

JUDICIARY SUBCOMMITTEE ON CIVIL PROCEDURE

Senator Richard Rock, Chairman

February 26, 1991  
10:00 a.m.  
Room 514-S

SB 206- disposition of moneys credited to juvenile detention facilities fund.  
Money now designated for juvenile detention facilities could be used for juvenile intake programs.

**PROPOSERS**

Anne Smith, Kansas Association of Counties  
Judy Cully, The Shelter, Lawrence (ATTACHMENT 1)  
Terry Moore, Kansas Children's Service League (ATTACHMENT 2)  
Dave Helsel, Court Attendant, Cowley County (ATTACHMENT 3)  
Rick Pfeiffer, Mental Health Facility, Crawford County  
Shirley Martin-Smith, Mayor of City of Lawrence (ATTACHMENT 4)

**OPPOSERS**

none appeared.

Subcommittee recommendation: recommend favorable for passage.

SB 207- jurisdiction for child under child care code will extend past 18 if child is still in high school.  
Children who have reached age 18 and still in high school could continue to receive SRS support through graduation.

**PROPOSERS**

Senator Sheila Frahm, 40th District (ATTACHMENT 5)

**OPPOSERS**

none appeared.

Subcommittee recommendation: recommend favorable for passage.

SB 226- court shall order educational assessment for child in need of care and juvenile offender.  
Would help keep children in some type of educational facility if they were suspended or otherwise in need of care.

**PROPOSERS**

Judge Daniel Mitchell, Shawnee County District

**OPPOSERS**

none appeared.

Subcommittee recommendation: recommend favorable for passage.

GUEST LIST

COM. PTTEE: Senate Judiciary Subcommittee on

DATE: 2/26/91

CIVIL PROCEDURE

NAME (PLEASE PRINT)	ADDRESS	COMPANY/ORGANIZATION
KEH HALES	TOPEKA	SHAWNEE COUNTY YOUTH CENTER
Jue BOND	OVERLAND PARK	
Shuk Martin-Smith	Lawrence	City
Judy Hillyer	Lawrence	The Shelter Inc.
Tony Moran	Topeka	Kansas Children's Service League
Tom McKenny	Topeka	KS Children's Service League
Becci Akis	O.P.	Ks children's Service League
Melissa Ness	Topeka	Ks. Children's <sup>serv.</sup> League
Chris McKenzie	Lawrence	Douglas County
JIM CLARK	TOPEKA	KC PAA
Ron Smith	"	KBA
Laurie Hartman	"	KBA
Steve Prager	Golden City	
DAVID WELSEL	DEXTER, KS	19th Judicial Dist.
Cindy Kelly	Topeka	KASB
Al Singleton	MANHATTAN	DISTRICT COURT
Paul Shelby	Topeka	OTA
Will Badden	Topeka	LWUK
Kris Gottschalk	Lawrence	intern
Paula Freerksen	Topeka	League of Ks Municipalities
Doug Bowman	"	Children & Youth Advisory
Richard H. Pfeiffer	Pittsburg, KS	Crawford County
Barbara Heff	Topeka, KS	Keeps For Networking
Anne Smith	Topeka	KS Assoc. of Counties
David O'Brien	Topeka	SRS - Youth/Adult Services



## THE SHELTER

**Date:** February 26, 1991  
**To:** Senate Judiciary - Subcommittee on Civil Procedure  
**From:** Judy Culley, The Shelter, Inc.  
**Re:** Support for SB 206

The Shelter, Inc., is a private non-profit corporation that has done emergency services for children in Lawrence since 1981. At that time, we started our shelter, providing emergency/temporary care for children in the state's custody for up to 90 days. We are on a purchase of service contract with the state for that program. In 1987, we started our juvenile intake service, providing staff on call to law enforcement to do crisis intervention and look for placement options for juveniles. That program is one of many in the state initially funded by a Juvenile Justice and Delinquency Prevention (JJDP) Grant through SRS, the goal of these programs being the removal of juveniles from jail. (See list attached)

Our program in Lawrence has been very successful in accomplishing that goal. According to records from the State Jail Alternatives Coordinator's office, the baseline data for Douglas County indicates that in 1986, prior to our program start-up, our county jailed 180 juveniles. The most recent data from that office indicates that between May, 1989, and April, 1990, our county jailed 16 juveniles, demonstrating a 91% jail removal rate. Other intake programs have similar success rates.

As you know, last year the legislature wisely passed legislation requiring the removal of juveniles from adult jails in Kansas, mandating statewide what juvenile intake programs had already been accomplishing in some areas. Even more wisely, the legislature also provided funding to help with this effort through the creation of the juvenile detention facilities fund, designed to help counties build and operate locked programs for juveniles.

The creation of juvenile detention facilities is absolutely necessary if jail removal is to be accomplished. Equally important in the jail removal effort, however, is the screening process provided by juvenile intake services. By screening, mediating with families, and examining all the resources, juvenile intake programs are able to insure that detention is used only for the juveniles who really need to be detained. This is not only morally right, but cost-effective as well.

*Subcommittee - Senate Judiciary  
Attachment 1  
2-26-91*

The Shelter, Inc.  
105 W. 11th Street  
P.O. Box 647  
Lawrence, KS 66044  
913-843-2085

*Board of Directors*

Barbara Brand  
Scot Buxton  
Mike Hall  
Helen Kiefer  
Caren Lowe  
Janet Marquis  
Martin Moore  
Laura Sutherland  
Bob Treanor  
Randy Weseman  
Jonell Williams  
Wint Winter, Jr.  
Cecilia Woods  
Doug Witt  
Judy Culley,  
*Executive Director*

As the law reads currently, the funds provided for jail removal are only to be used for detention facilities. These juvenile intake programs started by JJDP grants are on decreasing 4 year funding cycles. The responsibility for picking up these programs, then, falls to local government and property tax payers. Although we have been very fortunate to receive support from the City of Lawrence and Douglas County this year, these programs are at risk yearly, as directors each year ask for more from people who are already contributing a great deal to the jail removal effort as a result of the mandate. If the state is willing to help local government with the expense of detaining juveniles, it seems appropriate for the state to also help with the expense of screening to insure the best use of facilities, as both juvenile detention facilities and intake serve to accomplish jail removal. For these reasons, then, I urge your support of this bill.

INTAKE SERVICE RESOURCES

Bourbon/Linn/Miami

Cathy Stockard  
P O Box 187  
Paola, KS 66071  
913/294-3151  
3232 SO

Mike Kramer  
207 West 23rd  
Ft. Scott, KS 66701  
316/223-1790 (4641-home)

Cowley County

Cheryle Freed  
Box 47  
Winfield, KS 67156  
316/221-4071 Ext 314

Crawford County

Michael Walden  
Community Mental Health Center  
of Crawford County  
Box 550  
Pittsburg, KS 66762  
316/231-5130

Douglas County

Karen Smith  
P O Box 647  
Lawrence, KS 66044  
913/843-2085

Finney County

Terri Knight/Brian Dinkel  
504 St. John  
Garden City, KS 67846  
316/276-3051 X 160 or 181

Lyon County

Jack Myers  
Lynn Henning  
618 Commercial  
Emporia, KS 66801  
316/342-4950 Court Serv.

Riley

Karen Berry  
Riley County Community Corrections  
105 Courthouse Plaza  
Manhattan, KS 66502  
913/776-9626

Shawnee County

Tim McHenry  
KCSL  
2600 SE 23rd  
Topeka, KS 66611  
913/234-5424



TESTIMONY: Senate Bill 206  
PRESENTER: Terry Moore  
District Director  
Kansas Children's  
Service League  
DATE: February 26, 1991

#### Kansas Children's Service League

- \* Statewide Private Non-profit child welfare agency
  - Mission to protect and promote the wellbeing of children and enhance the quality of family life.
- \* Topeka District (offices in Topeka and Manhattan)
  - Wide range of services (Foster Care, Respite Care, Parent-Adolescent Mediation, Family Preservation, Counseling, Emergency Youth Shelter, Juvenile Assessment and Intake Service.

#### Juvenile Assessment and Intake Service (JAIS)

- \* On call 24 hours a day, 365 days a year to law enforcement
- \* Intake all juveniles except for A, B, or C Felons
- \* Assess situation, provide crisis intervention, and make placement decision in "best interest of the child"
- \* Placement options include back home or near relative, Emergency Foster Care, Shelter, Shawnee County Youth Center
- \* In 1990 KCSL Juvenile Assessment and Intake Service
  - 690 intakes
  - 22% delinquent, 46% status offender, 27% deprived, 5% other non-offender
  - 46% of intakes diverted kids from placement (30% Shelter, 14% Foster Care, SCYC 10%)
- \* \$104,000 Annual budget using County, JJDP (SRS), and City Social Services funds.

Speaking in favor of Senate Bill 206 authorizing the use of detention funding for diverting juveniles from placement in jails and detention. Programs like JAIS:

- \* Best interest of children, youth and families
  - helps kids and families get the help they need in the least restrictive environment
  - keeps kids out of jails and detention
  - 11% recidivism in JAIS
  - reduced Children in Need of Care in detention by 25%
  - SCYC (detention) has nearly doubled services to out-of-county youth removing them from jails
- \* Save money preventing kids from entering the already overburdened and costly system (SRS, Foster Care, Shelter, Detention, Courts system)

Senate Bill 206 represents good social policy. It is proactive, saves taxpayer dollars, makes our whole system work more effectively, and serves the interest of children youth and families.

*Subcommittee - Senate Judiciary  
Attachment 2  
2-26-91*

**A STATEMENT IN FAVOR OF SENATE BILL 206  
PREPARED BY,  
David M. Helsel, Chief Court Services Officer  
Cheryle Freed, Juvenile Intake Officer  
19th Judicial District in Cowley County**

Few programs in Kansas, or in any other state, could provide such dramatic statistics of positive endorsement in such a limited amount of time. In order to continue the Juvenile Intake Program, we desperately need continued funding for the existing program, additional funding to hire a second person, and funding to provide a second holdover room in order to meet the needs of both male and female juveniles. The current situation constrains us to choose one or the other, when a male and female are brought in on the same day.

Cowley County started the Juvenile Intake Program on May 1, 1989 with the hiring of one juvenile intake officer. The original intent of the program was to hire one full-time officer and one part-time officer to relieve the full-time person. Obviously, if a jail alternative program of this nature is going to work, someone needs to be on call around the clock. A part-time officer was not funded.

Due to a lack of funding, this has placed a severe hardship on the one full-time juvenile intake officer. That officer is on call 24 hours a day, 7 days a week. Court Services Officers have volunteered some weekends, but F.L.S.A. has made this endeavor difficult due to compensatory time. Our program is operating on a "Bare Bones Budget". This program has proven to be an impressive success as an alternative to placing juveniles in jail, but could very easily fail when funding has not been made available to hire adequate staff to keep it going.

The following statistics should inspire an optimistic outlook for the continuation of this program and I am sure that other counties can produce the same type of positive synopsis of their existing programs.

**STATISTICS OF JUVENILES HELD IN JAIL  
BEFORE THE JUVENILE INTAKE PROGRAM WAS STARTED IN COWLEY COUNTY**

YEAR	NUMBER OF JV HELD IN JAIL	MALES	FEMALES	NUMBER OF <u>DAYS</u> JV HELD IN JAIL
1984	49	43	6	383
1985	44	37	7	242
1986	33	26	7	183
1987	30	24	6	220
1988	44	38	6	265
1-1-89 to 6-9-89	18	13	5	155

THE HOLDOVER ROOM WAS GRANTED A TEMPORARY LICENSE ON 6-15-89.

STATISTICS TAKEN AFTER 6-9-89.

YEAR	NUMBER OF JV HELD IN JAIL	MALES	FEMALES	NUMBER OF <u>HOURS</u> JV HELD IN JAIL
6-9-89 to				
12-31-89	1	1	0	40 min.
1990	2	2	0	28 hrs. 10 min.
1991 to date	0	0	0	0

PLEASE NOTE: The above total is given in hours and not days. The first 6 months of 1989 would have been close to 3,720 hours spent in jail by a juvenile versus 40 minutes after the beginning of the program.

During the last half of 1989, a total of 46 juveniles were served through the Juvenile Intake Program and the holdover room was used for a total of 342 hours.

In 1990, 80 juveniles were served through the Juvenile Intake Program in Cowley County. The holdover room was used for a total of 788.5 hours.

From January 1, 1990 to February 22, 1991, 9 juveniles have been served through the Juvenile Intake Program and the holdover room has been used for a total of 87 hours for this year to date.

Cowley County has 13 female and 16 male, trained attendant care volunteers. We have utilized a valuable resource from a local small college and hope that they will continue to volunteer in their communities after they graduate.

In addition to those statistics, law enforcement personnel have been freed from the task of watching juveniles and calling parents. Law enforcement is able to resume duties quicker after a juvenile arrest.

It is most important that our program and others like it be continued. Senate Bill 206 would insure that our program remains after the SRS-JJDPA funds end.

The Cowley County Commission stands behind our program at this time. Priorities do change and in times of fiscal constraints, programs such as ours, might not survive. Senate Bill 206 would give local governments funding support in the area of holdover attendant care facilities.

The Cowley County Commission is unanimously in favor of Senate Bill 206.





# City of Lawrence KANSAS

MIKE WILDGEN, CITY MANAGER

CITY OFFICES 6 EAST 6th  
BOX 708 66044-0708 913-841-7722

CITY COMMISSIONERS  
MAYOR  
SHIRLEY MARTIN-SMITH  
COMMISSIONERS  
ROBERT L. WALTERS  
DAVID PENNY  
MIKE RUNDLE  
BOB SCHUMM

February 26, 1991

*Thank you for the opportunity to speak in support of Senate Bill #206.*

*This bill would insure continued attention to helping all of our children in crisis. In Lawrence, The Shelter provides juvenile intake services for youth, designed to direct our youth from placement in jails or detention facilities.*

*Lawrence law enforcement officers are often the first people to know about children and families who need help. They encounter family disputes, runaways, and abused and abandoned children, as well as children who have committed crimes. The Shelter, Inc., provides a staff of helping professionals on call 24 hours a day to officers to provide assistance with any juvenile case. They provide crisis intervention services to families, as well as referral services for further help. If it appears that there is a significant risk to a child or to society, they seek emergency placement options in the community. Their goal is to prevent the placement of juveniles in jail if at all possible. They look to a child's relatives and friends as well as hospitals, volunteers, and their residential program to help achieve that goal. Last year approximately 300 children and their families were served in this program.*

*The City of Lawrence has long been willing to enhance the Shelter's capability to provide immediate assistance to our youth by allocating funding each year. However, in the Summer of 1990 the City Commission received a request from The Shelter to increase the allocation by almost 300%. It is our*

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understanding that this increase was needed to offset lost dollars from other funding sources.

At the time of the request, the City Commission expressed their concern about the substantial increase in funding requested from the City, as well as the future of the Juvenile Intake Program at The Shelter.

The City Commission allocated the additional funding to The Shelter with the clear understanding that this could not be viewed as a permanent funding source, but was to be viewed as the City's support of the work performed by The Shelter and to keep the Juvenile Intake Program operating through 1991.

Senator Winter supported the additional funding by the City and assured the City Commission, at that time, that he would propose a bill this session to address this funding crisis. Senator Winter has kept his word and I am here on behalf of the City of Lawrence to support his effort on behalf of our children in Kansas.

I respectfully urge your support of SB #206.

  
Shirley Martin-Smith  
Mayor

# Douglas County

TO: Senate Judiciary Committee  
FROM: Christopher McKenzie, County Administrator  
DATE: February 26, 1991  
SUBJECT: Support of Senate Bill No. 206

I appear today in support of Senate Bill 206 on behalf of the Douglas County Commission. For a number of years Douglas County and the City of Lawrence have benefited from the operation of a juvenile intake program which has been operated by the Shelter, Inc. This program fills a critical need in the juvenile justice system by providing trained youth case workers to law enforcement on a 24 hours per day, 7 days per week basis.

While many services are provided through this program, the most critical today is advising law enforcement regarding placement options and providing attendant care services for juveniles. As you know, many juveniles who come in contact with the court system are better served if they are not placed in jails or detention facilities. On the other hand, other juveniles belong in detention facilities. The juvenile intake program helps accomplish the proper placement of juveniles in the juvenile justice system.

Since its inception in 1989, the juvenile intake program has been funded from a variety of sources, with federal grants providing the greatest share of the financial support. In 1989 and 1990, federal funds accounted for 87% of the funding of this program. The balance of \$10,880 came from Douglas County and the City of Lawrence, with each providing 50% of the necessary local support.

In 1991 the federal funding picture is substantially different, with federal funds accounting for only 23.3% of the funding. The City of Lawrence and Douglas County have each appropriated \$19,565 for support of the program because no other sources of federal or state funding are available. Even though the City and County support comes in part from the property tax, we feel this program is important enough to the future of our community to continue it.

In 1990 legislature took action in 1990 House Bill 3041 to make funding available for the construction, renovation, remodeling operational costs or retirement of debt of juvenile detention facilities. While we acknowledge Douglas County's strong interest in receiving such funding for a secure detention facility for northeast Kansas, we respectfully suggest that similar funding should be available for programs which divert juveniles from jails and secure detention facilities. In many instances, diversion from jails and detention facilities will better serve the juveniles and the public. We need both secure and nonsecure approaches in the placement of juveniles who are involved with the juvenile justice system. We suggest the state should play a partnership role in this effort.

**Courthouse**

Eleventh & Massachusetts / Lawrence, Kansas 66044 / (913) 841-7700

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SB 207

Presented by: Sheila Frahm, Senator

February 23, 1991

Comments Concerning Proposed Revisions of Age for SRS Support.

In the last year I have become sharply aware that the Code for Care of Children lacked clarity on a very important issue.

The Kansas Divorce code in Chapter 60 makes it clear that child support has to continue for a child until that child has graduated from high school even though the child has already had his/her 18th birthday. The reason is obviously that with the change in starting school most children do not graduate from high school until after their 18th birthday.

The Code for Care of Children has left this unclear. Twice in the last year I have represented juveniles who had been determined to be children in need of care and who had been removed from their homes. They had virtually no contact or support from their parents in either case. In both cases the judge came very close to terminating SRS support when the child reached 18, even though this would have left the child the middle of their high school year with no support and no home. In both cases SRS was willing to extend the independent living program to the child and, after considerable work, the judge involved in each case agreed to this.

The uncertainty certainly did neither child any benefit. It involved extra court time. Moreover, while the child's best interest in these two cases were met, I wonder about other children whose *guardian ad litem*s are too busy to pursue such a case or to do so when the judge has stated that the *guardian ad litem* will not be reimbursed at all should the *guardian ad litem* pursue the matter or whose social worker is too overloaded. This uncertainty should not exist.

Children whose parents have divorced are certainly in a tragic situation, but those children who have been moved from their parents home due to conditions there or abandoned by their parents are in a worse situation. There is no reason for the State to require support for children of divorced parents past their 18th birthday until they graduate from High School but not do so for other children whose situation is even worse.

In this age of tight budgets, the objection that this will cost too much may be raised. The expense, I think, would be minor since in most cases we would be talking about a few more months of SRS support. Furthermore, as I have already noted, SRS in many cases is supporting these children through the independent living program. More importantly, we need to look at the long term. Enabling a child who is in a very stressed situation to at least get through high school puts them in a better position to get a decent job and to become a contributing, taxpaying member of society rather than a drop out who works a minimum wage jobs and who, in my judgement, would be more likely to cause additional expense to their community and state.

I respectfully request that the bill co-sponsored by Senator Sheila Frahm be passed to ensure that no child in need of care is dropped from SRS support until such time as they are 18 and have graduated from High School.

Respectfully submitted,

Subcommittee - Senate Judiciary  
Attachment 5  
2-26-91

  
Charles A. Peckham

5-1/8

**BROWN, CREIGHTON & PECKHAM**

P.O. BOX 46, 308 Main,

Atwood, KS 67730

PH: 913 626 3295

FAX: 913 626 3448

TO: Sheila Frahm

FROM: cap

CC: FILE;

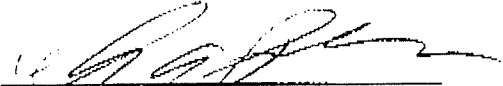
RE: Senate Bill 207

DATE: February 25, 1991

Enclosed please find copies of the current K.S.A. 38-1502 and 1503 from the Code for Care of Children and K.S.A. 39-702, the Social Welfare Chapter. My experience has been that when dealing with juveniles that the Court looks at the Code for Care of Children, Chapter 38. That Chapter states that jurisdiction ends at age 18 unless the court chooses to extend it. The Juvenile Courts generally *do not* look at chapter 39, which indicates that a dependent child is one who is under 19 and in secondary school.

As I have previous indicated, twice in the last year I have represented juveniles who were children in need of care and who were still in High School where the Court attempt to terminate SRS support and foster care at age 18, even though in both cases the juvenile was receiving no support, emotionally or financial, from their families. Chapter 38, in my opinion, should specifically require that the case be continued until a child who is 18 graduates from high school. It should not be optional with the judge. To do otherwise risks that juveniles who turn 18 will have support withdrawn from them before they finish high school through no fault of their own. This will sharply increase the likelihood of dropping out of school. A juvenile who is in foster care, by definition, is generally in a highly stressed situation since Courts do not intervene in family affairs except where things have gotten bad. The situation should not be made worse by putting them on their own before they graduate from high school.

In many communities, a lot of pressure can be brought on Judges to hold down the expense of foster care, or families at odds with the juvenile may apply great pressure to a judge to just drop the child. Since Chapter 38 is for the benefit and protection of our youth, it should clearly protect them from termination of foster care where they are still in need of it in their senior year in high school.

  
Charles A. Peckham  
BROWN, CREIGHTON & PECKHAM,  
P.O. BOX 46, 308 Main,  
Atwood, Ks 67730  
913 626-3295

38-1315

MINORS

38-1315.

Law Review and Bar Journal References: "Election of Remedies in Multistate Child Custody Disputes: Writ of Habeas Corpus or Filing and Enforcement of Foreign Custody Pursuant to the Uniform Child Custody Jurisdiction Act," Michael Laster, Vol. X, No. 2, J.K.T.L.A. 15 (1986).

38-1323.

CASE ANNOTATIONS

1. Cited; burden to establish pendency of another action and applicability of UCCJA examined; pending divorce proceeding in France noted. In re Marriage of Nasica, 12 K.A.2d 794, 797, 758 P.2d 240 (1989).

Article 14.—CHILDREN AND YOUTH ADVISORY COMMITTEE

38-1401.

Attorney General's Opinions: Children and youth advisory committee—compensation; office space and staff assistance. 88-150.

38-1403.

Attorney General's Opinions: Children and youth advisory committee—compensation; office space and staff assistance. 88-150.

Article 15.—KANSAS CODE FOR CARE OF CHILDREN

Law Review and Bar Journal References: "A Quantitative and Descriptive Survey of Evidence Law in the Kansas Appellate Courts," Stanley D. Davis, 37 K.L.R. 715, 780 (1989).

Attorney General's Opinions: Reporting of abuse or neglect of children: court services officers. 89-100.

Child in need of care petitions: duties of county or district attorney to represent SRS. 90-33.

GENERAL PROVISIONS

38-1501.

Attorney General's Opinions: Filing of petition on referral by SRS or other person; filing by individual; authority of SRS to file child in need of care petitions. 85-26.

Investigation of reports of suspected child abuse or neglect. 85-150.

Reasonable efforts to avoid placing child in need of care outside home. 89-31.

CASE ANNOTATIONS

5. Cited; existence of confidential relationships pursuant to 38-1514 examined. State v. Munyon, 240 K. 53, 54, 726 P.2d 1333 (1986).

6. Cited; review by indigent defense services board of claims by appointed attorneys (22-4522) constitutional. Clark v. Ivy, 240 K. 195, 202, 727 P.2d 493 (1986).

7. When child involved in involuntary proceeding may be Indian, notice must be served on tribe or Secretary of Interior. In re H.D., 11 K.A.2d 531, 536, 729 P.2d 1234 (1986).

8. Cited; relinquishment of parental rights under 125 et seq. while severance proceeding (38-1581 et seq.) pending examined. In re A.W., 241 K. 810, 812, 740 P.2d 82 (1987).

9. In appeal from magistrate judge's decision, district court must hear case as if originally filed. In re K.J., K.A.2d 188, 190, 737 P.2d 874 (1987).

10. Trial de novo required on appeal to district court (38-1591) from proceeding pursuant hereto. In re K.J., 2 K. 418, 748 P.2d 418 (1988).

11. Cited; legal obligation of county to provide counsel for indigent defendants charged with misdemeanor; hourly rate allowed examined. Board of Osage County Comm'rs v. Burns, 242 K. 544, 545, 747 P.2d 1338 (1988).

12. Applicability of minimum contacts rule in 60-306 to termination of parental rights (38-1581 et seq.) determined. In re M.L.K., 13 K.A.2d 251, 254, 768 P.2d 303 (1989).

38-1502. Definitions. As used in this code, unless the context otherwise indicates:

(a) "Child in need of care" means a person less than 18 years of age who:

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

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

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

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

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

(6) is not attending school as required by K.S.A. 72-977 or 72-1111, and amendments thereto;

(7) except in the case of a violation of K.S.A. 41-727 or subsection (j) of K.S.A. 1985 Supp. 74-8810, and amendments thereto, does an act which, when committed by a person under 18 years of age, is prohibited by state law, city ordinance or county resolution but which is not prohibited when done by an adult.

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

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

(10) is willfully and voluntarily absent at least a second time from a court ordered or designated placement, or a placement pursuant to court order, if the absence is without the consent of the person with whom the child is placed or, if the child is placed in a facility,

...the consent of facility or such pe "Physical, mental" means the infl... emotional injury... of a child and... limited to, failing... and treatment, n... treatment or exploit... the child's health c... endangered. A parent... beliefs who do... treatment for... beliefs shall not... a negligent p... shall not pre... an order pursuan... 38-1513 and am... "Sexual abuse" i... with a child which... Chapter 21 of the... and those acts d... or 21-3603, and ar... of the age of t... "Parent," when... or children, incl... servator and every pers... maintain, care for or... "Interested party... prisoner, the child, a... found to be an int... K.S.A. 38-1541 and... "Law enforce... person who by virtue... employment is vested by l... public order or to r... whether that duty exte... limited to specific crim... "Youth resident... home, foster home or st... 24-hour-a-day care for... licensed pursuant to ar... the Kansas Statutes An... "Shelter facility... private facility or home... detention facility that... with this code for... either temporary pl... children in need of car... of a dispositional orde... under a dispositional o... "Juvenile detent... secure public or priva... lawful custody of acc... juvenile offenders which

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ent of j rights under  
 nce proc. g (38-1581 et  
 A W., 241 K. 810, 812, 740 P  
 agistrate judge's decision, dut  
 if originally filed. In re K.J.,  
 2d 874 (1987).  
 quired on appeal to district co  
 g pursuant hereto. In re K.J.,  
 1988).  
 tion of county to provide cour  
 s charged with misdemeano  
 nined. Board of Osage Cou  
 . 544, 545, 747 P.2d 1338 (19  
 nimum contacts rule in 60-30  
 al rights (38-1581 et seq.) de  
 K.A. 2d 251, 254, 768 P.2d  
 nitions. As used in th  
 ntext otherwise indicate  
 d of care" means a pers  
 of age who:  
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 sically, mentally or em  
 neglected or sexual  
 ed for care or adoption  
 ndoned or does not ha  
 nt;  
 ng school as required  
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 e case of a violation  
 ession (j) of K.S.A. 19  
 amendments thereto, d  
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 by K.S.A. 21-3105 a  
 l voluntarily absent fro  
 hout the consent of th  
 er custodian; or  
 nd voluntarily absent  
 from a court ordered  
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 absence is without th  
 with whom the child  
 d is placed in a facilit

without the consent of the person in charge of  
 such facility or such person's designee.  
 (k) "Physical, mental or emotional abuse or  
 neglect" means the infliction of physical, men-  
 tal or emotional injury or the causing of a de-  
 terioration of a child and may include, but shall  
 not be limited to, failing to maintain reasonable  
 care and treatment, negligent treatment or  
 maltreatment or exploiting a child to the extent  
 that the child's health or emotional well-being  
 is endangered. A parent legitimately practicing  
 religious beliefs who does not provide specified  
 medical treatment for a child because of reli-  
 gious beliefs shall not for that reason be con-  
 sidered a negligent parent; however, this  
 exception shall not preclude a court from en-  
 tering an order pursuant to subsection (a)(2) of  
 K.S.A. 38-1513 and amendments thereto.  
 (l) "Sexual abuse" means any act commit-  
 ted with a child which is described in article  
 35, chapter 21 of the Kansas Statutes Anno-  
 tated and those acts described in K.S.A. 21-  
 3602 or 21-3603, and amendments thereto, re-  
 gardless of the age of the child.  
 (m) "Parent," when used in relation to a  
 child or children, includes a guardian, con-  
 servator and every person who is by law liable  
 to maintain, care for or support the child.  
 (n) "Interested party" means the state, the  
 petitioner, the child, any parent and any per-  
 son found to be an interested party pursuant  
 to K.S.A. 38-1541 and amendments thereto.  
 (o) "Law enforcement officer" means any  
 person who by virtue of office or public em-  
 ployment is vested by law with a duty to main-  
 tain public order or to make arrests for crimes,  
 whether that duty extends to all crimes or is  
 limited to specific crimes.  
 (p) "Youth residential facility" means any  
 home, foster home or structure which provides  
 24-hour-a-day care for children and which is  
 licensed pursuant to article 5 of chapter 65 of  
 the Kansas Statutes Annotated.  
 (q) "Shelter facility" means any public or  
 private facility or home other than a juvenile  
 detention facility that may be used in accord-  
 ance with this code for the purpose of provid-  
 ing either temporary placement for the care of  
 children in need of care prior to the issuance  
 of a dispositional order or longer term care  
 under a dispositional order.  
 (r) "Juvenile detention facility" means any  
 secure public or private facility used for the  
 lawful custody of accused or adjudicated ju-  
 venile offenders which must not be a jail.

(j) "Adult correction facility" means any  
 public or private facility, secure or nonsecure,  
 which is used for the lawful custody of accused  
 or convicted adult criminal offenders.  
 (k) "Secure facility" means a facility which  
 is operated or structured so as to ensure that  
 all entrances and exits from the facility are  
 under the exclusive control of the staff of the  
 facility, whether or not the person being de-  
 tained has freedom of movement within the  
 perimeters of the facility, or which relies on  
 locked rooms and buildings, fences or physical  
 restraint in order to control behavior of its res-  
 idents. No secure facility shall be in a city or  
 county jail.  
 (l) "Ward of the court" means a child over  
 whom the court has acquired jurisdiction by  
 the filing of a petition pursuant to this code  
 and who continues subject to that jurisdiction  
 until the petition is dismissed or the child is  
 discharged as provided in K.S.A. 38-1503 and  
 amendments thereto.  
 (m) "Custody," whether temporary, pro-  
 tective or legal, means the status created by  
 court order or statute which vests in a custo-  
 dian, whether an individual or an agency, the  
 right to physical possession of the child and  
 the right to determine placement of the child,  
 subject to restrictions placed by the court.  
 (n) "Placement" means the designation by  
 the individual or agency having custody of  
 where and with whom the child will live.  
 (o) "Secretary" means the secretary of so-  
 cial and rehabilitation services.  
 (p) "Relative" means a person related by  
 blood, marriage or adoption but, when refer-  
 ring to a relative of a child's parent, does not  
 include the child's other parent.  
 (q) "Court-appointed special advocate"  
 means a responsible adult other than an at-  
 torney guardian *ad litem* who is appointed by  
 the court to represent the best interests of a  
 child, as provided in K.S.A. 38-1505a and  
 amendments thereto, in a proceeding pursuant  
 to this code.  
 (r) "Multidisciplinary team" means a group  
 of persons, appointed by the court or by the  
 state department of social and rehabilitation  
 services under K.S.A. 1969 Supp. 38-1523a  
 and amendments thereto, which has knowl-  
 edge of the circumstances of a child in need  
 of care.  
 (s) "Jail" means:  
 (1) An adult jail or lockup; or  
 (2) a facility in the same building or on the  
 same grounds as an adult jail or lockup, unless

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the facility meets all applicable standards and licensure requirements under law and there is (A) total separation of the juvenile and adult facility spatial areas such that there could be no haphazard or accidental contact between juvenile and adult residents in the respective facilities; (B) total separation in all juvenile and adult program activities within the facilities, including recreation, education, counseling, health care, dining, sleeping, and general living activities; and (C) separate juvenile and adult staff, including management, security staff and direct care staff such as recreational, educational and counseling.

**History:** L. 1982, ch. 182, § 2; L. 1983, ch. 140, § 12; L. 1984, ch. 153, § 1; L. 1985, ch. 144, § 1; L. 1986, ch. 158, § 2; L. 1987, ch. 112, § 36; L. 1988, ch. 138, § 1; L. 1989, ch. 95, § 7; L. 1990, ch. 146, § 2; L. 1990, ch. 150, § 4; Jan. 1, 1991.

**Law Review and Bar Journal References:**  
"CASA: A Voice for Children," Derenda Mitchell, 58 J.K.B.A. No. 5, 28, 29 (1989).

**Attorney General's Opinions:**

Investigation of reports of suspected child abuse or neglect. 85-150.

School attendance, curriculum and accreditation; responsibility to investigate home instruction. 85-159.

Postadjudicatory proceedings; duties of county attorney. 86-3.

Chronic runaways; placement in secure facilities. 88-130.  
Exceptional children; compulsory school attendance; duty to investigate and file petition. 90-19.

**CASE ANNOTATIONS**

3. Cited; findings required in order after determining child in need of care (38-1563) examined. In re A.B., 12 K.A.2d 391, 393, 746 P.2d 96 (1987).

4. One cannot be legal guardian unless made an interested party, or status as guardian requested. In re A.F., 13 K.A.2d 232, 239, 767 P.2d 846 (1989).

**38-1503.**

**Attorney General's Opinions:**

Filing of petition on referral by SRS or other person; filing by individual; authority of SRS to file child in need of care petitions. 85-26.

**CASE ANNOTATIONS**

2. When child involved in involuntary proceeding may be Indian, notice must be served on tribe or Secretary of Interior. In re H.D., 11 K.A.2d 531, 536, 729 P.2d 1234 (1986).

**38-1505.**

**Law Review and Bar Journal References:**

"CASA: A Voice for Children," Derenda Mitchell, 58 J.K.B.A. No. 5, 28, 29 (1989).

**CASE ANNOTATIONS**

1. Cited; legal obligation of county to provide counsel for indigent defendants charged with misdemeanors, hourly rate allowed examined. Board of Osage County Commrs v. Burt, 242 K. 544, 546, 747 P.2d 1338 (1988).

2. Requirements before child in need of care can be filed inapplicable to proceedings under parent act (38-1110 et seq.). In re Marriage of O'Brien, 13 402, 407, 772 P.2d 278 (1989).

**38-1505a.**

**Law Review and Bar Journal References:**  
"CASA: A Voice for Children," Derenda Mitchell, J.K.B.A. No. 5, 28, 29 (1989).

**38-1506.** Court records; preservation records. (a) **Official file.** The official file of proceedings pursuant to this code shall consist of the petition, process, service of process orders, writs and journal entries reflecting findings heard and judgments and decrees entered by the court. The official file shall be separate from other records of the court. The official file shall be privileged and shall not be disclosed directly or indirectly to any person except:

(1) A judge of the district court and members of the staff of the court designated by the judge of the district court;

(2) the guardian *ad litem* and the parties to the proceedings and their attorneys;

(3) a public or private agency or institution having custody of the child under court order and

(4) any other person when authorized by court order, subject to any conditions imposed by the order.

(b) **Social file.** Reports and information received by the court, other than the official file shall be privileged and open to inspection only by the guardian *ad litem* or an attorney for an interested party or upon court order. The reports shall not be further disclosed by the guardian *ad litem* or attorney without approval of the court or by being presented as admissible evidence.

(c) **Preservation of records.** The Kansas state historical society shall be allowed to take possession for preservation in the state archives of any court records related to proceedings under the Kansas code for care of children whenever such records otherwise would be destroyed. No such records in the custody of the Kansas state historical society shall be disclosed directly or indirectly to anyone for more than 10 years after creation of the records, except as provided in subsections (a) and (b). Pursuant to subsections (a)(4) and (b), a judge of the district court may allow inspection for research purposes of any court records in the custody of the Kansas state historical society related to proceedings under the Kansas code for care of children.



Jurisdiction until the petition is dismissed or the child is discharged as provided in K.S.A. 38-1503 and amendments thereto.

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

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

(o) "Secretary" means the secretary of social and rehabilitation services.

(p) "Relative" means a person related by blood, marriage or adoption but, when referring to a relative of a child's parent, does not include the child's other parent.

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

**History:** L. 1982, ch. 182, § 2; L. 1983, ch. 140, § 12; L. 1984, ch. 153, § 1; L. 1985, ch. 144, § 1; L. 1986, ch. 158, § 2; July 1.

**Revisor's Note:**

Section was amended twice in 1985 session, see also 38-1502a.

**Law Review and Bar Journal References:**

"Home Education v. Compulsory Attendance Laws: Whose Kids Are They Anyway?" David Allen Peterson, 24 W.L.J. 274, 295 (1985).

**CASE ANNOTATIONS**

1. Cited in holding unaccredited "home school" taught by uncertified teacher-mother with no testing, planning or scheduling not school under 72-1111. *In re Sawyer*, 234 K. 436, 438, 672 P.2d 1093 (1983).

2. Cited in holding incapacitated parent entitles to service on guardian and conservator (60-304(c)) in severance proceedings. *In re Baby Boy Bryant*, 9 K.A.2d 768, 772, 774, 689 P.2d 1203 (1984).

**38-1502a.**

**History:** L. 1982, ch. 182, § 2; L. 1983, ch. 140, § 12; L. 1984, ch. 153, § 1; L. 1985, ch. 145, § 3; Repealed, L. 1986, ch. 158, § 4; July 1.

**38-1503. Jurisdiction.** (a) Proceedings concerning any child who appears to be a child in need of care shall be governed by this code, except in those instances when the Indian child welfare act of 1978 (25 USC §§ 1901 *et seq.*) applies.

(b) Subject to the uniform child custody jurisdiction act (K.S.A. 38-1301 *et seq.*), the district court shall have original jurisdiction to receive and determine proceedings under this code.

(c) When jurisdiction has been acquired by the court over the person of a child in need of care it may continue until the child: (1) Has attained the age of 21 years; (2) has been adopted; or (3) has been discharged by the court. Any child 18 years of age or over may request by motion to the court, that the jurisdiction of the court cease; thereupon, the court shall enter an order discharging the person from any further jurisdiction of the court.

(d) When it is no longer appropriate for the court to exercise jurisdiction over a child the court, upon its own motion or the motion of an interested party, shall enter an order discharging the child.

(e) Unless the court finds that substantial injustice would result, the provisions of this code shall govern with respect to acts or omissions occurring prior to the effective date of this code and with respect to children alleged or adjudicated to have done or to have been affected by the acts or omissions, to the same extent as if the acts or omissions had occurred on or after the effective date and the children had been alleged or adjudicated to be children in need of care.

**History:** L. 1982, ch. 182, § 3; Jan. 1, 1983.

**CASE ANNOTATIONS**

1. Uniform child custody jurisdiction act applicable to continuing child custody case hereunder. *In re Wicks*, 10 K.A.2d 124, 125, 693 P.2d 481 (1984).

**38-1504. Venue.** (a) Venue of any case involving a child in need of care shall be in the county of the child's residence or in the county where the child may be found.

(b) Upon application of the petitioner, or any person authorized to appeal any final order in any proceedings pursuant to this code and after notice to all other interested parties, the court in which original proceedings are pending alleging that a child is a child in need of care may order the proceedings transferred to the court of the county where the child is physically present, where the parent or parents reside or where other proceedings are pending in this state concerning custody of the same child or children. The judge of the court in

which the case is pending shall be transferred to the judge of the court to which the case is transferred. The judge of the court to which the case is transferred shall have jurisdiction to receive and determine proceedings under this code. When jurisdiction has been acquired by the court over the person of a child in need of care it may continue until the child: (1) Has attained the age of 21 years; (2) has been adopted; or (3) has been discharged by the court. Any child 18 years of age or over may request by motion to the court, that the jurisdiction of the court cease; thereupon, the court shall enter an order discharging the person from any further jurisdiction of the court. When it is no longer appropriate for the court to exercise jurisdiction over a child the court, upon its own motion or the motion of an interested party, shall enter an order discharging the child. Unless the court finds that substantial injustice would result, the provisions of this code shall govern with respect to acts or omissions occurring prior to the effective date of this code and with respect to children alleged or adjudicated to have done or to have been affected by the acts or omissions, to the same extent as if the acts or omissions had occurred on or after the effective date and the children had been alleged or adjudicated to be children in need of care.

**History:** L. 1982, ch. 140, § 13

**38-1505.**

**pointment of guardian ad litem.** Upon the filing of a petition to appoint a person as guardian of a child, the court shall appoint a person as guardian *ad litem* of the child. The guardian *ad litem* shall investigate the child and represent the child in court and represent the child in proceedings under this code. The guardian *ad litem* shall be appointed by the court and shall not be appointed by the parent or other person.

(b) **Attorney for child.** The court shall appoint an attorney for the child in proceedings under this code. The attorney for the child shall not be appointed by the parent or other person. The attorney for the child shall attend the hearing.

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Sections: 9, art. 7.

63, § 8; G.S. 1868, § 1, § 1; L. 1917, ch. 53, § 1; R.S. 1923, 1957, ch. 267, § 1;

138, §§ 2, 3; R.S. repealed, L. 1957, ch.

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Sections:

Kan. Const., Art. 7, § 4. Repealed by probate court, see

rehabilitation services, see

References:

State social security act of 1937, S.A.K. 23, 27 (1937).

of act. It is hereby declared the policy of the state to be an effective unified work for the state; to the work; and to the provisions provided for for welfare work as and federal rules of the policy of the interfere with the un- moral obligations of on possible, for the relatives, but rather it to assist the needy the relatives in pro- assistance for depen-

327, § 1; L. 1973, 74.

enacted in 1973; powers and Secretary of social and reha- 01 et seq.

Welfare 2. Public Welfare §§ 2, 3. demands, Kansas Pro-

CASE ANNOTATIONS

1. Act repealed 39-313 by implication. State v. Lange, 148 K. 614, 615, 616, 617, 618, 83 P.2d 653.

2. Cited; county required to raise fund produced by three-mill levy; application sales tax residue. State, ex rel. v. Jackson County Board of Social Welfare, 161 K. 672, 675, 171 P.2d 651.

3. Cited in holding insurance protection provided by 74-4707 through 74-4713 is applicable to county welfare director under facts of case. Mott, Executor v. Mitchell, 209 K. 476, 486, 496 P.2d 1207.

4. This and following sections cited in holding that where S.R.S. was obligor under contract, it had duty to pay nursing homes for bills of welfare patients. Seneca Nursing Home v. Secretary of S.R.S., 604 F.2d 1309, 1310, 1315.

5. Cited; in absence of specific statutory authority the S.R.S. cannot maintain action for punitive damages. State ex rel. Secretary of S.R.S. v. Fomby, 11 K.A.2d 138, 141, 144, 715 P.2d 1045 (1986).

**39-702. Definitions.** The following words and phrases when used in this act shall, for the purposes of this act, have the meanings respectively ascribed to them in this section:

(a) "Secretary" means the secretary of social and rehabilitation services.

(b) "Applicants" means all persons who, as individuals, or in whose behalf requests are made of the secretary for aid or assistance.

(c) "Social welfare service" may include such functions as giving assistance, the prevention of public dependency, and promoting the rehabilitation of dependent persons or those who are approaching public dependency.

(d) "Assistance" includes such items or functions as the giving or providing of money, food stamps or coupons, food, clothing, shelter, medicine or other materials, the giving of any service, including instructive or scientific, and the providing of institutional care, which may be necessary or helpful to the recipient in providing the necessities of life for the recipient and the recipient's dependents. The definitions of social welfare service and assistance in this section shall be deemed as partially descriptive and not limiting.

(e) "Aid to families with dependent children" means financial assistance with respect to or on behalf of a dependent child or dependent children and includes financial assistance for any month to meet the needs of the relative with whom any dependent child is living.

(f) "Medical assistance" means the payment of all or part of the cost of necessary:

(1) Medical, remedial, rehabilitative or preventive care and services which are within the scope of services to be provided under a medical care plan developed by the secretary pursuant to this act and furnished by health care providers who have a current approved provider agreement with the secretary, and (2) transportation to obtain care and services which are within the scope of services to be provided under a medical care plan developed by the secretary pursuant to this act.

(g) "Dependent children" means needy children under the age of 18, or who are under the age of 19 and are full-time students in secondary schools or the equivalent educational program or are full-time students in a program of vocational or technical training if they may be reasonably expected to complete the training before attaining age 19, who have been deprived of parental or guardian support or care by reasons of the death, continued absence from the home, or physical or mental incapacity of a parent or guardian, and who are living with any blood relative, including those of the half-blood, and including first cousins, uncles, aunts, and persons of preceding generations are denoted by prefixes of grand, great, or great-great, and including the spouses or former spouses of any persons named in the above groups, in a place of residence maintained by one or more of such relatives as their own home. The secretary may adopt rules and regulations which extend the deprivation requirement under this definition to include being deprived of parental or guardian support or care by reason of the unemployment of a parent or guardian. The term "dependent children" also includes children who would meet the foregoing requirements except for their removal from the home of a relative as a result of judicial determination to the effect that continuation therein would be contrary to the welfare of such children, for whose placement and care the secretary is responsible, who have been placed in a foster family home or child care institution as a result of such determination and who received aid to dependent children in or for the month in which court proceedings leading to such determination were initiated, or would have received such aid in or for such month if application had been made therefor, or in the case of a child who

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### 39-703 MENTALLY ILL, INCAPACITATED, DEPENDENT PERSONS

had been living with a relative specified above within six months prior to the month in which such proceedings were initiated, would have received such aid in or for such month if in such month such child had been living with and removed from the home of such a relative and application had been made therefor.

(h) "The blind" means not only those who are totally and permanently devoid of vision, but also those persons whose vision is so defective as to prevent the performance of ordinary activities for which eyesight is essential.

(i) "General assistance" means financial assistance in which the cost of such financial assistance is not participated in by the federal government. General assistance may be limited to transitional assistance in some instances as specified by rules and regulations adopted by the secretary.

(j) "Recipient" means a person who has received assistance under the terms of this act.

(k) "Intake office" means the place where the secretary shall maintain an office for receiving applications.

(l) "Adequate consideration" means consideration equal, or reasonably proportioned to the value of that for which it is given.

(m) "Transitional assistance" means a form of general assistance in which as little financial assistance as one payment may be made during each period of 12 consecutive calendar months to an eligible and needy person and all other persons for whom such person is legally responsible.

**History:** L. 1937, ch. 327, § 2; L. 1951, ch. 288, § 1; L. 1953, ch. 391, § 34; L. 1955, ch. 236, § 1; L. 1957, ch. 268, § 1; L. 1963, ch. 255, § 1; L. 1967, ch. 245, § 1; L. 1969, ch. 226, § 1; L. 1973, ch. 186, § 2; L. 1978, ch. 159, § 1; L. 1981, ch. 185, § 1; L. 1983, ch. 143, § 1; March 10.

#### Law Review and Bar Journal References:

"Exclusionary Zoning and Its Effects on Group Homes in Areas Zoned for Single-Family Dwellings," 24 K.L.R. 677, 699 (1976).

#### CASE ANNOTATIONS

1. Action for recovery of reasonable charges; plaintiff's class provided medical assistance under statutes. *Seneca Nursing Home v. Kansas State Bd. of Social Welf.*, 490 F.2d 1324, 1333.

2. General assistance recipient who is VISTA worker is employed and not required to participate in work projects; general assistance may not be reduced

by amount worker receives. *In re McGhee*, 5 K.A.2d 461, 618 P.2d 859.

3. Recovery of support under 39-718a and 39-755 constitutional; absent parent may assert defenses before judgment. *State ex rel. Secretary of SRS v. Castro*, 235 K. 704, 709, 714, 684 P.2d 379 (1984).

4. Where father's action did not constitute continued absence, mother not entitled to AFDC. *State ex rel. Secretary of S.R.S. v. Fomby*, 11 K.A.2d 138, 145, 146, 715 P.2d 1045 (1986).

#### 39-703 to 39-707.

**History:** L. 1937, ch. 327, §§ 3 to 7; Repealed, L. 1939, ch. 202, § 10; April 15.

#### 39-708.

**History:** L. 1937, ch. 327, § 8; L. 1951, ch. 288, § 2; L. 1963, ch. 255, § 2; L. 1965, ch. 286, § 1; L. 1967, ch. 245, § 2; L. 1969, ch. 226, § 2; L. 1970, ch. 167, § 1; L. 1971, ch. 153, § 1; L. 1973, ch. 187, § 1; Repealed, L. 1973, ch. 186, § 42; Jan. 1, 1974.

#### CASE ANNOTATIONS

1. Discussed in holding lien provision (now repealed) constitutional. *Hawkins v. Social Welfare Board*, 148 K. 760, 761, 84 P.2d 930.

2. County board cannot sue and be sued; powers generally discussed. *Dellinger v. Harper County Social Welfare Board*, 155 K. 207, 211, 124 P.2d 513.

3. Discussed; mandatory to raise fund produced by three-mill levy; sales tax residue application. *State, ex rel., v. Jackson County Board of Social Welfare*, 161 K. 672, 675, 171 P.2d 651.

4. State welfare department may maintain action to recover fraudulent payment to recipient. *State dep't of Social Welfare v. Leonard*, 166 K. 630, 632, 633, 635, 203 P.2d 207.

5. Cited in holding insurance protection provided by 74-4707 through 74-4713 is applicable to county welfare director under facts of case. *Mott, Executor v. Mitchell*, 209 K. 476, 486, 487, 496 P.2d 1297.

6. Subsection (k) cited; eligibility for benefits under social welfare act does not create implied contract giving rise to a suit for damages. *Valkenburgh v. State Board of Social Welfare*, 211 K. 754, 755, 756, 508 P.2d 875.

7. Subsection (x) discussed; administrative action directing proration of fees for medical and professional services was beyond scope of board's authority. *Rhodes v. Harder*, 211 K. 820, 822, 823, 825, 826, 829, 830, 831, 508 P.2d 959. Motion to modify decision; portion of original opinion withdrawn: 212 K. 500, 501, 512 P.2d 354.

8. Mentioned; class action contesting state welfare department's "value of moderate home" rule as applied to recipients of housing relocation payments. *Young v. Harder*, 361 F. Supp. 64, 68, 73.

9. Board of social welfare manual and regulation setting nursing home services fees on cost plus basis repugnant to statutes. *Seneca Nursing Home v. Kansas State Bd. of Social Welf.*, 490 F.2d 1324, 1327, 1328, 1329, 1331, 1332, 1333.

10. Intent of subsection (x) is to encourage nursing homes to accept welfare recipients and to assure payment; where S.R.S. was obligor under contract, it had a duty to pay. *Seneca Nursing Home v. Secretary of S.R.S.*, 604 F.2d 1309, 1310, 1311, 1314, 1315.

11. Certain living home serv. *Inc. v. Harder*, 1140. Opinion 623 P.2d 505.

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#### 39-708b

**History:**  
288, § 2; L.  
286, § 1; L.  
226, § 2; L.  
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#### 39-708c

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