

## HOUSE BILL No. 2132

By Committee on Child Welfare and Foster Care

Requested by Laura Howard, Secretary for Children and Families

1-28

1 AN ACT concerning children and minors; relating to the revised Kansas  
2 code for care of children; modifying the definition of neglect;  
3 prohibiting the removal of a child from such child's home due solely to  
4 a lack of financial resources; requiring facts of imminent harm due to a  
5 lack of financial resources demonstrate more than one fact of such lack  
6 of financial resources; allowing the court to consider the participation  
7 of parents in services when determining whether a child shall be  
8 removed from such child's home; amending K.S.A. 2024 Supp. 38-  
9 2202, 38-2234 and 38-2243 and repealing the existing sections.

10  
11 *Be it enacted by the Legislature of the State of Kansas:*

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

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

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

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

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

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

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

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

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

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

35 (6) is not attending school as required by K.S.A. 72-3421 or 72-3120,

1 and amendments thereto;

2 (7) except in the case of a violation of K.S.A. 41-727, 74-8810(j), 79-  
3 3321(m) or (n), or ~~K.S.A. 21-6301(a)(14)~~, and amendments thereto, or,  
4 except as provided in paragraph (12), does an act which, when committed  
5 by a person under 18 years of age, is prohibited by state law, city  
6 ordinance or county resolution, but which is not prohibited when done by  
7 an adult;

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

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

13 (10) is willfully and voluntarily absent at least a second time from a  
14 court ordered or designated placement, or a placement pursuant to court  
15 order, if the absence is without the consent of the person with whom the  
16 child is placed or, if the child is placed in a facility, without the consent of  
17 the person in charge of such facility or such person's designee;

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

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

23 (13) has had a permanent custodian appointed and the permanent  
24 custodian is no longer able or willing to serve; or

25 (14) has been subjected to an act that would constitute human  
26 trafficking or aggravated human trafficking, as defined by K.S.A. 21-5426,  
27 and amendments thereto, or commercial sexual exploitation of a child, as  
28 defined by K.S.A. 21-6422, and amendments thereto, or has committed an  
29 act which, if committed by an adult, would constitute selling sexual  
30 relations, as defined by K.S.A. 21-6419, and amendments thereto.

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

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

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

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

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

8 (2) continuous trainings on child maltreatment from the CARE  
9 network; and

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

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

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

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

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

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

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

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

43 (p) "Educator" means any administrator, teacher or other professional

1 or paraprofessional employee of an educational institution who has  
2 exposure to a pupil specified in K.S.A. 72-6143(a), and amendments  
3 thereto.

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

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

10 (s) "Jail" means:

11 (1) An adult jail or lockup; or

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

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

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

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

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

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

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

42 (z) "Neglect" means acts or omissions by a parent, guardian or person  
43 *who is* responsible for the care of a child resulting in harm to a child, or

1 ~~presenting a likelihood of harm~~, and the acts or omissions are not due  
2 solely to the lack of financial means of the child's parents, *guardian* or  
3 ~~other custodian~~ *person who is responsible for the care of such child. The*  
4 *inability to provide for a child by a parent, guardian or person who is*  
5 *responsible for the care of such child due to inadequate financial*  
6 *resources thereof shall not be considered neglect for such reason alone.*

7 Neglect may include, but shall not be limited to:

8 (1) ~~Failure~~*Refusal* to provide the child with food, clothing or shelter  
9 necessary to sustain the life or health of the child *when the parent,*  
10 *guardian or person responsible for the care of such child is otherwise*  
11 *financially able to provide such care or offered financial or other*  
12 *reasonable resources to provide such care;*

13 (2) ~~failure~~*refusal* to provide adequate supervision of a child or to  
14 remove a child from a situation that requires judgment or actions beyond  
15 the child's level of maturity, physical condition or mental abilities and that  
16 results in bodily injury or ~~a likelihood of harm~~ to the child; or

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

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

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

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

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

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

43 (ff) "Placement" means the designation by the individual or agency

1 having custody of where and with whom the child will live.

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

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

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

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

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

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

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

29 (1) Be photographed, filmed or depicted in pornographic material; or  
30 (2) be subjected to aggravated human trafficking, as defined in  
31 K.S.A. 21-5426(b), and amendments thereto, if committed in whole or in  
32 part for the purpose of the sexual gratification of the offender or another,  
33 or be subjected to an act that would constitute conduct proscribed by  
34 article 55 of chapter 21 of the Kansas Statutes Annotated or K.S.A. 21-  
35 6419 or 21-6422, and amendments thereto.

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

41 (oo) "Support, opportunity, unity, legal relationships family legal  
42 permanency" or "SOUL family legal permanency" means the appointment  
43 of one or more adults, approved by a child who is 16 years of age or older

1 and the subject of a child in need of care proceeding, pursuant to K.S.A.  
2 38-2272a, and amendments thereto.

3 (pp) "Staff secure facility" means a facility described in K.S.A. 65-  
4 535, and amendments thereto: (1) That does not include construction  
5 features designed to physically restrict the movements and activities of  
6 juvenile residents who are placed therein; (2) that may establish reasonable  
7 rules restricting entrance to and egress from the facility; and (3) in which  
8 the movements and activities of individual juvenile residents may, for  
9 treatment purposes, be restricted or subject to control through the use of  
10 intensive staff supervision. No staff secure facility shall be in a city or  
11 county jail.

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

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

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

28 Sec. 2. K.S.A. 2024 Supp. 38-2234 is hereby amended to read as  
29 follows: 38-2234. (a) *Filing and contents of petition.* (1) A petition filed to  
30 commence an action pursuant to this code shall be filed with the clerk of  
31 the district court and shall state, if known:

- 32 (A) The name, date of birth and residence address of the child;  
33 (B) the name and residence address of the child's parents;  
34 (C) the name and address of the child's nearest known relative if no  
35 parent can be found;  
36 (D) the name and residence address of any persons having custody or  
37 control of the child; and  
38 (E) plainly and concisely in the language of the statutory definition,  
39 the basis for the petition.

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

43 (3) The proceedings shall be entitled: "In the Interest of

1 \_\_\_\_\_."

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

4 (5) The petition shall contain a request that the parent or parents be  
5 ordered to pay child support. The request for child support may be omitted  
6 with respect to a parent already ordered to pay child support for the child  
7 and shall be omitted with respect to one or both parents upon written  
8 request of the secretary.

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

14 (7) (A) If the petition requests removal of the child from the child's  
15 home, in addition to the information required by K.S.A. 38-2234(a)(6),  
16 and amendments thereto, the petition shall specify the facts demonstrating  
17 that allowing the child to remain in the home would be contrary to the  
18 welfare of the child or that placement is in the best interests of the child  
19 and the child is likely to sustain *imminent* harm if not removed from the  
20 home. *Such facts specified shall show a causal relationship between the*  
21 *particular conditions in the home and imminent harm to the child. Facts*  
22 *demonstrating imminent harm shall not include any of the following*  
23 *alone:*

- 24 (i) *Community or family poverty;*
- 25 (ii) *isolation;*
- 26 (iii) *age of the parent;*
- 27 (iv) *crowded or inadequate housing;*
- 28 (v) *substance abuse;*
- 29 (vi) *prenatal drug or alcohol exposure;*
- 30 (vii) *mental or behavioral health conditions;*
- 31 (viii) *disability or special needs of the parent or child; or*
- 32 (ix) *a finding of noncompliance with compulsory school attendance*  
33 *pursuant to K.S.A. 72-1113, and amendments thereto.*

34 (B) *Including imminent harm to the child in such petition shall show*  
35 *that such harm outweighs the harm to the child as a result of such*  
36 *requested removal.*

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

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

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



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

3 (C) the permanent termination of one or both of the parents' parental  
4 rights;

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

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

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

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

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

18 Sec. 3. K.S.A. 2024 Supp. 38-2243 is hereby amended to read as  
19 follows: 38-2243. (a) Upon notice and hearing, the court may issue an  
20 order directing who shall have temporary custody and may modify the  
21 order during the pendency of the proceedings as will best serve the child's  
22 welfare.

23 (b) A hearing pursuant to this section shall be held within 72 hours,  
24 excluding Saturdays, Sundays, legal holidays, and days on which the  
25 office of the clerk of the court is not accessible, following a child having  
26 been taken into protective custody.

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

31 (d) Notice of the temporary custody hearing shall be given at least 24  
32 hours prior to the hearing. The court may continue the hearing to afford the  
33 24 hours prior notice or, with the consent of the party or interested party,  
34 proceed with the hearing at the designated time. If an order of temporary  
35 custody is entered and the parent or other person having custody of the  
36 child has not been notified of the hearing, did not appear or waive  
37 appearance and requests a rehearing, the court shall rehear the matter  
38 without unnecessary delay.

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

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

1 that the:

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

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

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

7 (4) child has been subjected to human trafficking or aggravated  
8 human trafficking, as defined by K.S.A. 21-5426, and amendments  
9 thereto, or commercial sexual exploitation of a child, as defined by K.S.A.  
10 21-6422, and amendments thereto;

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

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

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

18 (A) *Whether participation by the parents, guardians or legal  
19 custodians in any prevention services would prevent or eliminate the need  
20 for removal, and if so, the court shall inquire from the parent if such  
21 parent is willing to participate in such services. The court shall not order  
22 a parent to participate in prevention services over the objection of such  
23 parent, except that a parent shall have the opportunity to consult with  
24 counsel prior to deciding whether to agree to proposed prevention services  
25 as a condition of having the child return to or remain in the care of the  
26 parent; and*

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

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

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

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

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

41 (C) a youth residential facility;

42 (D) a shelter facility;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

28 Sec. 4. K.S.A. 2024 Supp. 38-2202, 38-2234 and 38-2243 are hereby  
 29 repealed.

30 Sec. 5. This act shall take effect and be in force from and after its  
 31 publication in the statute book.