

## HOUSE BILL No. 2356

By Committee on Judiciary

Requested by Representative Alcalá on behalf of Diana Swafford

2-7

1 AN ACT concerning the uniform nonparent visitation act; modifying the  
2 evidentiary standard used to determine nonparent visitation rights;  
3 amending K.S.A. 2024 Supp. 23-3308 and 23-3309 and repealing the  
4 existing sections.  
5

6 *Be it enacted by the Legislature of the State of Kansas:*

7 Section 1. K.S.A. 2024 Supp. 23-3308 is hereby amended to read as  
8 follows: 23-3308. (a) A court may order visitation to a nonparent ~~only~~ if  
9 the nonparent proves that:

10 (1) The denial of visitation would ~~result in harm to the child~~ *be*  
11 *unreasonable*;

12 (2) the nonparent:

13 (A) Is or has been a consistent caretaker as described in subsection  
14 (b) ~~within one year~~ *two years* of the initiation of the action; or

15 (B) Has a substantial relationship with the child as described in  
16 subsection (c); and

17 (3) an order of visitation to the nonparent is in the best interest of the  
18 child, applying the factors in K.S.A. 2024 Supp. 23-3315, and  
19 amendments thereto.

20 (b) A nonparent is a consistent caretaker if the nonparent, without  
21 expectation of compensation:

22 (1) Lived with the child for not less than 12 months, unless the court  
23 finds good cause to accept a shorter period;

24 (2) regularly exercised care of the child;

25 (3) made day-to-day decisions regarding the child solely or in  
26 cooperation with an individual having physical custody of the child; and

27 (4) established a bonded and dependent relationship with the child  
28 with the express or implied consent of a parent or person acting as a parent  
29 of the child or without the consent of a parent or person acting as a parent  
30 if no parent or person acting as a parent has been able or willing to  
31 perform parenting functions.

32 (c) A nonparent has a substantial relationship with the child if:

33 (1) The nonparent:

34 (A) Is an individual with a familiar relationship with the child by  
35 blood or law; or

- 1 (B) formed a relationship with the child without expectation of
- 2 compensation;
- 3 (2) a significant emotional bond exists between the nonparent and the
- 4 child from the child's point of view; and
- 5 (3) the nonparent:
- 6 (A) Regularly exercised care of the child; and
- 7 (B) established a bonded and dependent relationship with the child
- 8 with the express or implied consent of a parent or person acting as a parent
- 9 of the child or without the consent of a parent or person acting as a parent
- 10 if no parent or person acting as a parent has been able or willing to
- 11 perform parenting functions.
- 12 Sec. 2. K.S.A. 2024 Supp. 23-3309 is hereby amended to read as
- 13 follows: 23-3309. (a) In an initial proceeding under this act, there is a
- 14 rebuttable presumption that a decision by a parent or person acting as a
- 15 parent regarding a request for visitation by a nonparent is in the best
- 16 interest of the child.
- 17 (b) Subject to K.S.A. 2024 Supp. 23-3317, and amendments thereto,
- 18 a nonparent has the burden to rebut the presumption described in
- 19 subsection (a) by ~~clear and convincing~~ *substantial* evidence of the facts
- 20 required by K.S.A. 2024 Supp. 23-3308(a), and amendments thereto. Proof
- 21 of unfitness of a parent or person acting as a parent is not required to rebut
- 22 the presumption described in subsection (a).
- 23 Sec. 3. K.S.A. 2024 Supp. 23-3308 and 23-3309 are hereby repealed.
- 24 Sec. 4. This act shall take effect and be in force from and after its
- 25 publication in the statute book.