

HOUSE BILL No. 2450

By Committee on Children and Seniors

1-16

1 AN ACT providing for a change in terminology in the statutes from the
2 term "best interest of the child" to the term "least detrimental
3 alternative"; amending K.S.A. 39-7,149 and K.S.A. 2013 Supp. 23-
4 2204, 23-2208, 23-2209, 23-2215, 23-2225, 23-3004, 23-3103, 23-
5 3201, 23-3202, 23-3203, 23-3205, 23-3206, 23-3207, 23-3210, 23-
6 3211, 23-3212, 23-3213, 23-3217, 23-3221, 23-3222, 23-3301, 23-
7 3302, 23-3403, 23-3503, 23-3510, 38-2202, 38-2205, 38-2206, 38-
8 2212, 38-2213, 38-2226, 38-2229, 38-2231, 38-2232, 38-2234, 38-
9 2241, 38-2242, 38-2243, 38-2244, 38-2247, 38-2252, 38-2255, 38-
10 2258, 38-2259, 38-2264, 38-2267, 38-2269, 38-2270, 38-2272, 38-
11 2277, 38-2286, 38-2302, 39-7,145, 59-2136, 72-53,106 and 75-7023
12 and repealing the existing sections.
13

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

15 Section 1. K.S.A. 2013 Supp. 23-2204 is hereby amended to read as
16 follows: 23-2204. (a) The state registrar of vital statistics, in conjunction
17 with the ~~secretary of social and rehabilitation services for children and~~
18 ~~families~~, shall review and, as needed, revise acknowledgment of paternity
19 forms for use under K.S.A. 2013 Supp. 23-2223 and K.S.A. 65-2409a, and
20 amendments thereto. The acknowledgment of paternity forms shall include
21 or have attached a written description pursuant to subsection (b) of the
22 rights and responsibilities of acknowledging paternity.

23 (b) A written description of the rights and responsibilities of
24 acknowledging paternity shall state the following:

25 (1) An acknowledgment of paternity creates a permanent father and
26 child relationship which can only be ended by court order. A person who
27 wants to revoke the acknowledgment of paternity must file the request
28 with the court before the child is one year old, unless the person was under
29 age 18 when the acknowledgment of paternity was signed. A person under
30 age 18 when the acknowledgment was signed has until one year after his
31 or her 18th birthday to file a request, but if the child is more than one year
32 old then, the judge will first consider the ~~child's best interests~~ *least*
33 *detrimental alternative for the child.*

34 The person will have to show that the acknowledgment was based on
35 fraud, duress (threat) or an important mistake of fact, unless the request is
36 filed within 60 days of signing the acknowledgment or before any court

1 hearing about the child, whichever is earlier;

2 (2) both the father and the mother are responsible for the care and
3 support of the child. If necessary, this duty may be enforced through legal
4 action such as a child support order, an order to pay birth or other medical
5 expenses of the child or an order to repay government assistance payments
6 for the child's care. A parent's willful failure to support the parent's child is
7 a crime;

8 (3) both the father and the mother have rights of custody and
9 parenting time with the child unless a court order changes their rights.
10 Custody, residency and parenting time may be spelled out in a court order
11 and enforced;

12 (4) both the father and the mother have the right to consent to medical
13 treatment for the child unless a court order changes those rights;

14 (5) the child may inherit from the father and the father's family or
15 from the mother and the mother's family. The child may receive public
16 benefits, including, but not limited to, social security or private benefits,
17 including, but not limited to, insurance or workers compensation because
18 of the father-child or mother-child relationship;

19 (6) the father or the mother may be entitled to claim the child as a
20 dependent for tax or other purposes. The father or the mother may inherit
21 from the child or the child's descendants; and

22 (7) each parent has the right to sign or not sign an acknowledgment of
23 paternity. Each parent has the right to talk with an attorney before signing
24 an acknowledgment of paternity. Each parent has the right to be
25 represented by an attorney in any legal action involving paternity or their
26 rights or duties as a parent. Usually each person is responsible for hiring
27 the person's own attorney.

28 (c) Any duty to disclose rights or responsibilities related to signing an
29 acknowledgment of paternity shall have been met by furnishing the written
30 disclosures of subsection (b). Any duty to disclose orally the rights or
31 responsibilities related to signing an acknowledgment of paternity may be
32 met by means of an audio recording of the disclosures of subsection (b).

33 (d) An acknowledgment of paternity completed without the written
34 disclosures of subsection (b) is not invalid solely for that reason and may
35 create a presumption of paternity pursuant to K.S.A. 2013 Supp. 23-2208,
36 and amendments thereto. Nothing in K.S.A. 2013 Supp. 23-2202 through
37 23-2204, and amendments thereto, shall decrease the validity, force or
38 effect of an acknowledgment of paternity executed in this state prior to the
39 effective date of this act.

40 (e) Upon request, the state registrar of vital statistics shall provide a
41 certified copy of the acknowledgment of paternity to an office providing
42 IV-D program services.

43 Sec. 2. K.S.A. 2013 Supp. 23-2208 is hereby amended to read as

1 follows: 23-2208. (a) A man is presumed to be the father of a child if:

2 (1) The man and the child's mother are, or have been, married to each
3 other and the child is born during the marriage or within 300 days after the
4 marriage is terminated by death or by the filing of a journal entry of a
5 decree of annulment or divorce.

6 (2) Before the child's birth, the man and the child's mother have
7 attempted to marry each other by a marriage solemnized in apparent
8 compliance with law, although the attempted marriage is void or voidable
9 and:

10 (A) If the attempted marriage is voidable, the child is born during the
11 attempted marriage or within 300 days after its termination by death or by
12 the filing of a journal entry of a decree of annulment or divorce; or

13 (B) if the attempted marriage is void, the child is born within 300
14 days after the termination of cohabitation.

15 (3) After the child's birth, the man and the child's mother have
16 married, or attempted to marry, each other by a marriage solemnized in
17 apparent compliance with law, although the attempted marriage is void or
18 voidable and:

19 (A) The man has acknowledged paternity of the child in writing;

20 (B) with the man's consent, the man is named as the child's father on
21 the child's birth certificate; or

22 (C) the man is obligated to support the child under a written voluntary
23 promise or by a court order.

24 (4) The man notoriously or in writing recognizes paternity of the
25 child, including but not limited to a voluntary acknowledgment made in
26 accordance with K.S.A. 2013 Supp. 23-2223 or K.S.A. 65-2409a, and
27 amendments thereto.

28 (5) Genetic test results indicate a probability of 97% or greater that
29 the man is the father of the child.

30 (6) The man has a duty to support the child under an order of support
31 regardless of whether the man has ever been married to the child's mother.

32 (b) A presumption under this section may be rebutted only by clear
33 and convincing evidence, by a court decree establishing paternity of the
34 child by another man or as provided in subsection (c). If a presumption is
35 rebutted, the party alleging the existence of a father and child relationship
36 shall have the burden of going forward with the evidence.

37 (c) If two or more presumptions under this section arise which
38 conflict with each other, the presumption which on the facts is founded on
39 the weightier considerations of policy and logic, including the ~~best~~
40 ~~interests of~~ *least detrimental alternative* for the child, shall control.

41 (d) Full faith and credit shall be given to a determination of paternity
42 made by any other state or jurisdiction, whether the determination is
43 established by judicial or administrative process or by voluntary

1 acknowledgment. As used in this section, "full faith and credit" means that
2 the determination of paternity shall have the same conclusive effect and
3 obligatory force in this state as it has in the state or jurisdiction where
4 made.

5 (e) If a presumption arises under this section, the presumption shall
6 be sufficient basis for entry of an order requiring the man to support the
7 child without further paternity proceedings.

8 (f) The donor of semen provided to a licensed physician for use in
9 artificial insemination of a woman other than the donor's wife is treated in
10 law as if he were not the birth father of a child thereby conceived, unless
11 agreed to in writing by the donor and the woman.

12 Sec. 3. K.S.A. 2013 Supp. 23-2209 is hereby amended to read as
13 follows: 23-2209. (a) A child or any person on behalf of such a child, may
14 bring an action:

15 (1) At any time to determine the existence of a father and child
16 relationship presumed under K.S.A. 2013 Supp. 23-2208, and amendments
17 thereto; or

18 (2) at any time until three years after the child reaches the age of
19 majority to determine the existence of a father and child relationship which
20 is not presumed under K.S.A. 2013 Supp. 23-2208, and amendments
21 thereto.

22 (b) When authorized under K.S.A. 39-755 or 39-756, and
23 amendments thereto, the secretary ~~of social and rehabilitation services~~ *for*
24 *children and families* may bring an action at any time during a child's
25 minority to determine the existence of the father and child relationship.

26 (c) This section does not extend the time within which a right of
27 inheritance or a right to a succession may be asserted beyond the time
28 provided by law relating to the probate of estates or determination of
29 heirship.

30 (d) Any agreement between an alleged or presumed father and the
31 mother or child does not bar an action under this section.

32 (e) Except as otherwise provided in this subsection, if an
33 acknowledgment of paternity pursuant to K.S.A. 2013 Supp. 23-2204, and
34 amendments thereto, has been completed the man named as the father, the
35 mother or the child may bring an action to revoke the acknowledgment of
36 paternity at any time until one year after the child's date of birth. The legal
37 responsibilities, including any child support obligation, of any signatory
38 arising from the acknowledgment of paternity shall not be suspended
39 during the action, except for good cause shown. If the person bringing the
40 action was a minor at the time the acknowledgment of paternity was
41 completed, the action to revoke the acknowledgment of paternity may be
42 brought at any time until one year after that person attains age 18, unless
43 the court finds that the child is more than one year of age and that

1 revocation of the acknowledgment of paternity is not ~~in the child's best~~
2 ~~interest~~ *the least detrimental alternative for the child.*

3 The person requesting revocation must show, and shall have the burden
4 of proving, that the acknowledgment of paternity was based upon fraud,
5 duress or material mistake of fact unless the action to revoke the
6 acknowledgment of paternity is filed before the earlier of 60 days after
7 completion of the acknowledgment of paternity or the date of a proceeding
8 relating to the child in which the signatory is a party, including, but not
9 limited to, a proceeding to establish a support order.

10 If a court of this state has assumed jurisdiction over the matter of the
11 child's paternity or the duty of a man to support the child, that court shall
12 have exclusive jurisdiction to determine whether an acknowledgment of
13 paternity may be revoked under this subsection.

14 If an acknowledgment of paternity has been revoked under this
15 subsection, it shall not give rise to a presumption of paternity pursuant to
16 K.S.A. 2013 Supp. 23-2208, and amendments thereto. Nothing in this
17 subsection shall prevent a court from admitting a revoked
18 acknowledgment of paternity into evidence for any other purpose.

19 If there has been an assignment of the child's support rights pursuant to
20 K.S.A. 39-709, and amendments thereto, the ~~secretary of social and~~
21 ~~rehabilitation services for children and families~~ shall be a necessary party
22 to any action under this subsection.

23 Sec. 4. K.S.A. 2013 Supp. 23-2215 is hereby amended to read as
24 follows: 23-2215. (a) The judgment or order of the court determining the
25 existence or nonexistence of the parent and child relationship is
26 determinative for all purposes, but if any person necessary to determine
27 the existence of a father and child relationship for all purposes has not
28 been joined as a party, a determination of the paternity of the child shall
29 have only the force and effect of a finding of fact necessary to determine a
30 duty of support.

31 (b) If the judgment or order of the court is at variance with the child's
32 birth certificate, the court shall order that a new birth certificate be issued,
33 but only if any man named as the father on the birth certificate is a party to
34 the action.

35 (c) Upon adjudging that a party is the parent of a minor child, the
36 court shall make provision for support and education of the child including
37 the necessary medical expenses incident to the birth of the child. The court
38 may order the support and education expenses to be paid by either or both
39 parents for the minor child. When the child reaches 18 years of age, the
40 support shall terminate unless: (1) The parent or parents agree, by written
41 agreement approved by the court, to pay support beyond that time; (2) the
42 child reaches 18 years of age before completing the child's high school
43 education in which case the support shall not automatically terminate,

1 unless otherwise ordered by the court, until June 30 of the school year
2 during which the child became 18 years of age if the child is still attending
3 high school; or (3) the child is still a bona fide high school student after
4 June 30 of the school year during which the child became 18 years of age,
5 in which case the court, on motion, may order support to continue through
6 the school year during which the child becomes 19 years of age so long as
7 the child is a bona fide high school student and the parents jointly
8 participated or knowingly acquiesced in the decision which delayed the
9 child's completion of high school. The court, in extending support pursuant
10 to subsection (c)(3), may impose such conditions as are appropriate and
11 shall set the child support utilizing the guideline table category for 16-year
12 through 18-year-old children. Provision for payment of support and
13 educational expenses of a child after reaching 18 years of age if still
14 attending high school shall apply to any child subject to the jurisdiction of
15 the court, including those whose support was ordered prior to July 1, 1992.
16 If an agreement approved by the court prior to July 1, 1988, provides for
17 termination of support before the date provided by subsection (c)(2), the
18 court may review and modify such agreement, and any order based on
19 such agreement, to extend the date for termination of support to the date
20 provided by subsection (c)(2). If an agreement approved by the court prior
21 to July 1, 1992, provides for termination of support before the date
22 provided by subsection (c)(3), the court may review and modify such
23 agreement, and any order based on such agreement, to extend the date for
24 termination of support to the date provided by subsection (c)(3). For
25 purposes of this section, "bona fide high school student" means a student
26 who is enrolled in full accordance with the policy of the accredited high
27 school in which the student is pursuing a high school diploma or a
28 graduate equivalency diploma (GED). The judgment may require the party
29 to provide a bond with sureties to secure payment. The court may at any
30 time during the minority of the child modify or change the order of
31 support, including any order issued in a title IV-D case, within three years
32 of the date of the original order or a modification order, as required by
33 the best interest of the child. If more than three years has passed since the date
34 of the original order or modification order, a requirement that such order is
35 in the best interest of the child need not be shown. The court may make a
36 modification of support retroactive to a date at least one month after the
37 date that the motion to modify was filed with the court. Any increase in
38 support ordered effective prior to the date the court's judgment is filed
39 shall not become a lien on real property pursuant to K.S.A. 60-2202, and
40 amendments thereto.

41 (d) If both parents are parties to the action, the court shall enter such
42 orders regarding custody, residency and parenting time as the court
43 considers to be ~~in the best interest of~~ *the least detrimental alternative for*

1 the child.

2 If the parties have an agreed parenting plan it shall be presumed the
3 agreed parenting plan is ~~in the best interest of~~ *the least detrimental*
4 *alternative for* the child. This presumption may be overcome and the court
5 may make a different order if the court makes specific findings of fact
6 stating why the agreed parenting plan is not in the best interest of the child.
7 If the parties are not in agreement on a parenting plan, each party shall
8 submit a proposed parenting plan to the court for consideration at such
9 time before the final hearing as may be directed by the court.

10 (e) If during the proceedings the court determines that there is
11 probable cause to believe that the child is a child in need of care, as
12 defined by subsections (d)(1), (d)(2), (d)(3) or (d)(11) of K.S.A. 2013
13 Supp. 38-2202, and amendments thereto, or that neither parent is fit to
14 have residency, the court may award temporary residency of the child to a
15 grandparent, aunt, uncle or adult sibling, or another person or agency if the
16 court finds by written order that: (1) (A) The child is likely to sustain harm
17 if not immediately removed from the home; (B) allowing the child to
18 remain in home is contrary to the welfare of the child; or (C) immediate
19 placement of the child is ~~in the best interest of~~ *the least detrimental*
20 *alternative for* the child; and (2) reasonable efforts have been made to
21 maintain the family unit and prevent the unnecessary removal of the child
22 from the child's home or that an emergency exists which threatens the
23 safety of the child. In making such a residency order, the court shall give
24 preference, to the extent that the court finds it is ~~in the best interests of~~ *the*
25 *least detrimental alternative for* the child, first to awarding such residency
26 to a relative of the child by blood, marriage or adoption and second to
27 awarding such residency to another person with whom the child has close
28 emotional ties. The court may make temporary orders for care, support,
29 education and visitation that it considers appropriate. Temporary residency
30 orders are to be entered in lieu of temporary orders provided for in K.S.A.
31 2013 Supp. 38-2243 and 38-2244, and amendments thereto, and shall
32 remain in effect until there is a final determination under the revised
33 Kansas code for care of children. An award of temporary residency under
34 this paragraph shall not terminate parental rights nor give the court the
35 authority to consent to the adoption of the child. When the court enters
36 orders awarding temporary residency of the child to an agency or a person
37 other than the parent, the court shall refer a transcript of the proceedings to
38 the county or district attorney. The county or district attorney shall file a
39 petition as provided in K.S.A. 2013 Supp. 38-2234, and amendments
40 thereto, and may request termination of parental rights pursuant to K.S.A.
41 2013 Supp. 38-2266, and amendments thereto. The costs of the
42 proceedings shall be paid from the general fund of the county. If a final
43 determination is made that the child is not a child in need of care, the

1 county or district attorney shall notify the court in writing and the court,
2 after a hearing, shall enter appropriate custody orders pursuant to this
3 section. If the same judge presides over both proceedings, the notice is not
4 required. Any order pursuant to the revised Kansas code for care of
5 children shall take precedence over any similar order under this section.

6 (f) In entering an original order for support of a child under this
7 section, the court may award an additional judgment to reimburse the
8 expenses of support and education of the child from the date of birth to the
9 date the order is entered. If the determination of paternity is based upon a
10 presumption arising under K.S.A. 2013 Supp. 23-2208, and amendments
11 thereto, the court shall award an additional judgment to reimburse all or
12 part of the expenses of support and education of the child from at least the
13 date the presumption first arose to the date the order is entered, except that
14 no additional judgment need be awarded for amounts accrued under a
15 previous order for the child's support.

16 (g) In determining the amount to be ordered in payment and duration
17 of such payments, a court enforcing the obligation of support shall
18 consider all relevant facts including, but not limited to, the following:

- 19 (1) The needs of the child.
- 20 (2) The standards of living and circumstances of the parents.
- 21 (3) The relative financial means of the parents.
- 22 (4) The earning ability of the parents.
- 23 (5) The need and capacity of the child for education.
- 24 (6) The age of the child.
- 25 (7) The financial resources and the earning ability of the child.
- 26 (8) The responsibility of the parents for the support of others.
- 27 (9) The value of services contributed by both parents.

28 (h) The provisions of K.S.A. 2013 Supp. 23-3103, and amendments
29 thereto, shall apply to all orders of support issued under this section.

30 (i) An order granting parenting time pursuant to this section may be
31 enforced in accordance with K.S.A. 2013 Supp. 23-3401, and amendments
32 thereto, or under the uniform child custody jurisdiction and enforcement
33 act.

34 Sec. 5. K.S.A. 2013 Supp. 23-2225 is hereby amended to read as
35 follows: 23-2225. (a) Except as provided in subsection (d), a parent
36 granted rights pursuant to subsection (d) of K.S.A. 2013 Supp. 23-2215,
37 and amendments thereto, shall give written notice to the other parent who
38 has been granted rights pursuant to subsection (d) of K.S.A. 2013 Supp.
39 23-2215, and amendments thereto, not less than 30 days prior to: (1)
40 Changing the residence of the child; or (2) removing the child from this
41 state for a period of time exceeding 90 days. Such notice shall be sent by
42 restricted mail, return receipt requested, to the last known address of the
43 other parent.

1 (b) Failure to give notice as required by subsection (a) is an indirect
2 civil contempt punishable as provided by law. In addition, the court may
3 assess, against the parent required to give notice, reasonable attorney fees
4 and any other expenses incurred by the other parent by reason of the
5 failure to give notice.

6 (c) A change of the residence or the removal of a child from this state
7 as described in subsection (a) may be considered a material change of
8 circumstances which justifies modification of a prior order of child
9 support, custody or parenting time. In determining any such motion, the
10 court shall consider all factors the court deems appropriate including, but
11 not limited to:

12 (1) ~~Whether the effect of the move on the best interests of is the least~~
13 ~~detrimental alternative for the child;~~

14 (2) the effect of the move on any party having rights granted pursuant
15 to subsection (d) of K.S.A. 2013 Supp. 23-2215, and amendments thereto;
16 and

17 (3) the increased cost the move will impose on any party seeking to
18 exercise rights granted under subsection (d) of K.S.A. 2013 Supp. 23-
19 2215, and amendments thereto.

20 (d) A parent who has been granted rights pursuant to subsection (d) of
21 K.S.A. 2013 Supp. 23-2215, and amendments thereto, shall not be
22 required to give the notice required by this section to the other parent when
23 the other parent has been convicted of any crime specified in article 34, 35
24 or 36 of chapter 21 of the Kansas Statutes Annotated, prior to their repeal,
25 or article 54, 55 or 56 of chapter 21 of the Kansas Statutes Annotated, or
26 K.S.A. 2013 Supp. 21-6104, 21-6325, 21-6326 or 21-6418 through 21-
27 6421, and amendments thereto, in which the child is the victim of such
28 crime.

29 (e) This section shall be part of and supplemental to the Kansas
30 parentage act.

31 Sec. 6. K.S.A. 2013 Supp. 23-3004 is hereby amended to read as
32 follows: 23-3004. Except for good cause shown, every order requiring
33 payment of child support under this article shall require that the support be
34 paid through the central unit for collection and disbursement of support
35 payments designated pursuant to K.S.A. 2013 Supp. 39-7,135, and
36 amendments thereto. A written agreement between the parties to make
37 direct child support payments to the obligee and not pay through the
38 central unit shall constitute good cause, unless the court finds the
39 agreement is not ~~in the best interest of the least detrimental alternative for~~
40 ~~the child or children.~~ The obligor shall file such written agreement with the
41 court. The obligor shall maintain written evidence of the payment of the
42 support obligation and, at least annually, shall provide such evidence to the
43 court and the obligee.

1 Sec. 7. K.S.A. 2013 Supp. 23-3103 is hereby amended to read as
2 follows: 23-3103. (a) Any new or modified order for support shall include
3 a provision for the withholding of income to enforce the order for support.

4 (b) Except as otherwise provided in subsection (j), (k) or (m), all new
5 or modified orders for support shall provide for immediate issuance of an
6 income withholding order. The income withholding order shall be issued
7 regardless of whether a payor subject to the jurisdiction of this state can be
8 identified at the time the order for support is entered. The income
9 withholding order shall be issued without further notice to the obligor and
10 shall specify:

11 (1) If the income withholding order is to attach to periodic payments,
12 an amount sufficient to satisfy the order for support and to defray any
13 arrearage; or

14 (2) if the income withholding order is to attach a lump sum payment,
15 the amount the payor is required to withhold for support from the lump
16 sum payment.

17 (c) Except as otherwise provided in this subsection or subsections (j)
18 or (m), if no income withholding order is in effect to enforce the support
19 order, an income withholding order shall be issued by the court upon
20 request of the obligee or public office, provided that the obligor accrued an
21 arrearage equal to or greater than the amount of support payable for one
22 month and the requirements of subsections (d) and (h) have been met. The
23 income withholding order shall be issued without further notice to the
24 obligor and shall specify an amount sufficient to satisfy the order for
25 support and to defray any arrearage. The income withholding order shall
26 be issued regardless of whether a payor subject to the jurisdiction of this
27 state can be identified at the time the income withholding order is issued.

28 (d) Not less than seven days after the obligee or public office has
29 served a notice pursuant to subsection (h), the obligee or public office may
30 initiate income withholding pursuant to paragraph (1) or (2).

31 (1) The obligee or public office may apply for an income withholding
32 order by filing with the court an affidavit stating: (A) The date that the
33 notice was served on the obligor and the manner of service; (B) that the
34 obligor has not filed a motion to stay issuance of the income withholding
35 order or, if a motion to stay has been filed, the reason an income
36 withholding order must be issued immediately; (C) a specified amount to
37 be withheld by the payor to satisfy the order of support and to defray any
38 arrearage; (D) whether the income withholding order is to include a
39 medical withholding order; and (E) that the amount of the arrearage as of
40 the date the notice to the obligor was prepared was equal to or greater than
41 the amount of support payable for one month. In addition to any other
42 penalty provided by law, the filing of such an affidavit with knowledge of
43 the falsity of a material declaration is punishable as a contempt.

1 Upon the filing of the affidavit, the income withholding order shall be
2 issued without further notice to the obligor, hearing or amendments of the
3 support order. Payment of all or part of the arrearage before issuance of the
4 income withholding order shall not prevent issuance of the income
5 withholding order, unless the arrearage is paid in full and the order for
6 support does not include an amount for the current support of a person. No
7 affidavit is required if the court, upon hearing a motion to stay issuance of
8 the income withholding order or otherwise, issues an income withholding
9 order.

10 (2) In a title IV-D case, the IV-D agency may issue an income
11 withholding order as authorized by K.S.A. 39-7,147, and amendments
12 thereto. Any such income withholding order shall be considered an income
13 withholding order issued pursuant to this act.

14 (e) (1) An income withholding order shall be directed to any payor of
15 the obligor. Notwithstanding any other requirement of this act as to form
16 or content, only an income withholding order prepared in a standard
17 format prescribed by the secretary of the department for children and
18 families, or the standard federal notices and forms promulgated under 42
19 U.S.C. § 652 (a)(11) and 42 U.S.C. § 666 (b)(A)(ii), shall be deemed to be
20 in compliance with this act.

21 (2) An income withholding order which does not include a medical
22 withholding order shall require the payor to withhold from any income
23 due, or to become due, to the obligor a specified amount sufficient to
24 satisfy the order of support and to defray any arrearage and shall include
25 notice of and direction to comply with the provisions of K.S.A. 2013
26 Supp. 23-3104 and 23-3105, and amendments thereto.

27 (3) An income withholding order which consists only of a medical
28 withholding order shall include notice of the medical child support order
29 and shall conform to the requirements of K.S.A. 2013 Supp. 23-3116, and
30 amendments thereto. The medical withholding order shall include notice of
31 and direction to comply with the requirements of K.S.A. 2013 Supp. 23-
32 3104, 23-3105, 23-3114 and 23-3117, and amendments thereto.

33 (4) An income withholding order which includes both a medical
34 withholding order and an income withholding order for cash support shall
35 meet the requirements of paragraphs (2) and (3).

36 (f) (1) Upon written request and without the requirement of further
37 notice to the obligor, the clerk of the district court shall cause a copy of the
38 income withholding order to be served on the payor by first-class mail.

39 (2) Without the requirement of further notice to the obligor, the court
40 trustee or IV-D agency may cause a copy of any income withholding order
41 to be served on the payor by first-class mail or by any alternate method
42 acceptable to the payor, including, but not limited to: Facsimile
43 transmission, electronic mail attachment or electronic interface allowing

1 for the download of a document or transmission of the terms of the income
2 withholding order. No payor shall be liable to any person solely because of
3 the method of service accepted by the payor.

4 (3) As used in this section, "copy of the income withholding order"
5 means a copy of any document or notice, regardless of copy format, that
6 advises the payor of the same general duties, requires the same amount to
7 be withheld from income and requires medical withholding to the same
8 extent as the original income withholding order that complies with the
9 requirements of subsection (e)(1).

10 (g) An income withholding order shall be binding on any existing or
11 future payor on whom a copy of the order is served and shall require the
12 continued withholding of income from each periodic payment of income
13 until further order of the court or agency that issued the income
14 withholding order. At any time following issuance of an income
15 withholding order, a copy of the income withholding order may be served
16 on any payor without the requirement of further notice to the obligor.

17 (h) Except as provided in subsection (k) or (m), at any time following
18 entry of an order for support the obligee or public office may serve upon
19 the obligor a written notice of intent to initiate income withholding. If any
20 notice in the court record indicates that title IV-D services are being
21 provided in the case, whether or not the IV-D services include enforcement
22 of current support, the person or public office requesting issuance of the
23 income withholding order shall obtain the consent of the IV-D agency to
24 the terms of the proposed income withholding order.

25 The notice of intent to initiate income withholding shall be served on
26 the obligor by personal service, first-class mail or registered mail, return
27 receipt requested. The notice served on the obligor must state: (1) The
28 terms of the order of support and the total arrearage as of the date the
29 notice was prepared; (2) the amount of income that will be withheld, not
30 including premiums to satisfy a medical withholding order; (3) whether a
31 medical withholding order will be included; (4) that the provision for
32 withholding applies to any current or subsequent payor; (5) the procedures
33 available for contesting the withholding and that the only basis for
34 contesting the withholding is a mistake of fact concerning the amount of
35 the support order, the amount of the arrearage, the amount of income to be
36 withheld or the proper identity of the obligor; (6) the period within which
37 the obligor must act to stay issuance of the income withholding order and
38 that failure to take such action within the specified time will result in
39 payors' being ordered to begin withholding; and (7) the action which will
40 be taken if the obligor contests the withholding.

41 The obligor may, at any time, waive in writing the notice required by
42 this subsection.

43 (i) On request of an obligor, the court shall issue an income

1 withholding order which shall be honored by a payor regardless of whether
2 there is an arrearage. Nothing in this subsection shall limit the right of the
3 obligee to request modification of the income withholding order.

4 (j) (1) In a nontitle IV-D case, upon presentation to the court of a
5 written agreement between the parties providing for an alternative
6 arrangement, no income withholding order shall be issued pursuant to
7 subsection (b). In any case, before entry of a new or modified order for
8 support, a party may request that no income withholding order be issued
9 pursuant to subsection (b) if notice of the request has been served on all
10 interested parties and: (A) The party demonstrates, and the court finds, that
11 there is good cause not to require immediate income withholding; or (B) a
12 written agreement among all interested parties provides for an alternative
13 arrangement. If child support and maintenance payments are both made to
14 an obligee by the same obligor, and if the court has determined that good
15 cause has been shown that direct child support payments to the obligee
16 may be made, then the court shall provide for direct maintenance
17 payments to the obligee and no income withholding order shall be issued
18 pursuant to subsection (b). In a title IV-D case, the determination that there
19 is good cause not to require immediate income withholding must include a
20 finding that immediate income withholding would not be ~~in the child's best~~
21 ~~interests~~ *the least detrimental alternative for the child* and, if an obligor's
22 existing obligation is being modified, proof of timely payment of
23 previously ordered support.

24 (2) Notwithstanding the provisions of subsection (j)(1), the court
25 shall issue an income withholding order when an affidavit pursuant to
26 subsection (d) is filed if an arrearage exists in an amount equal to or
27 greater than the amount of support payable for one month.

28 (3) If a notice pursuant to subsection (h) has been served in a title IV-
29 D case, there is no arrearage or the arrearage is less than the amount of
30 support payable for one month, and the obligor files a motion to stay
31 issuance of the income withholding order based upon the court's previous
32 finding of good cause not to require immediate income withholding
33 pursuant to subsection (j)(1), the obligor must demonstrate the continued
34 existence of good cause. Unless the court again finds that good cause not
35 to require immediate income withholding exists, the court shall issue the
36 income withholding order.

37 (4) If a notice pursuant to subsection (h) has been served in a title IV-
38 D case, there is no arrearage or the arrearage is less than the amount of
39 support payable for one month, and the obligor files a motion to stay
40 issuance of an income withholding order based upon a previous agreement
41 of the interested parties for an alternative arrangement pursuant to
42 subsection (j)(1), the court shall issue an income withholding order,
43 notwithstanding any previous agreement, if the court finds that:

- 1 (A) The agreement was not in writing;
2 (B) the agreement was not approved by all interested parties;
3 (C) the terms of the agreement or alternative arrangement are not
4 being met;
5 (D) the agreement or alternative arrangement is not ~~in the best~~
6 ~~interests of the least detrimental alternative~~ for the child; or
7 (E) the agreement or alternative arrangement places an unnecessary
8 burden upon the obligor, obligee or a public office.

9 (5) The procedures and requirements of K.S.A. 2013 Supp. 23-3106,
10 and amendments thereto, apply to any motion pursuant to paragraph (3) or
11 (4) of this subsection.

12 (k) (1) An ex parte interlocutory order for support may be enforced
13 pursuant to subsection (b) only if the obligor has consented to the income
14 withholding in writing.

15 (2) An ex parte interlocutory order for support may be enforced
16 pursuant to subsection (c) only if 14 or more days have elapsed since the
17 order for support was served on the obligor.

18 (3) Any other interlocutory order for support may be enforced by
19 income withholding pursuant to this act in the same manner as a final
20 order for support.

21 (4) No bond shall be required for the issuance of an income
22 withholding order to enforce an interlocutory order pursuant to this act.

23 (l) All remittances from any income withholding order, regardless of
24 when such order was entered or modified, shall be required to be directed
25 to the central unit for collection and disbursement of support payments
26 designated pursuant to K.S.A. 2013 Supp. 39-7,135, and amendments
27 thereto.

28 (m) All new or modified orders for maintenance of a spouse or ex-
29 spouse, except orders for a spouse or ex-spouse living with a child for
30 whom an order of support is also being enforced, entered on or after July
31 1, 1992, shall include a provision for the withholding of income to enforce
32 the order of support. Unless the parties consent in writing to earlier
33 issuance of a withholding order, withholding shall take effect only after
34 there is an arrearage in an amount equal to or greater than the amount of
35 support payable for two months and after service of a notice as provided in
36 subsection (h).

37 Sec. 8. K.S.A. 2013 Supp. 23-3201 is hereby amended to read as
38 follows: 23-3201. The court shall determine custody or residency of a
39 child in accordance with the ~~best interests of~~ *least detrimental alternative*
40 *for the child.*

41 Sec. 9. K.S.A. 2013 Supp. 23-3202 is hereby amended to read as
42 follows: 23-3202. If the parties have entered into a parenting plan, it shall
43 be presumed that the agreement is ~~in the best interests of~~ *the least*

1 *detrimental alternative* for the child. This presumption may be overcome
2 and the court may make a different order if the court makes specific
3 findings of fact stating why the agreed parenting plan is not ~~in the best~~
4 ~~interests of the least detrimental alternative~~ for the child.

5 Sec. 10. K.S.A. 2013 Supp. 23-3203 is hereby amended to read as
6 follows: 23-3203. In determining the issue of child custody, residency and
7 parenting time, the court shall consider all relevant factors, including, but
8 not limited to:

9 (a) The length of time that the child has been under the actual care
10 and control of any person other than a parent and the circumstances
11 relating thereto;

12 (b) the desires of the child's parents as to custody or residency;

13 (c) the desires of the child as to the child's custody or residency;

14 (d) the interaction and interrelationship of the child with parents,
15 siblings and any other person who may significantly affect the ~~child's best~~
16 ~~interests~~ *least detrimental alternative for the child*;

17 (e) the child's adjustment to the child's home, school and community;

18 (f) the willingness and ability of each parent to respect and appreciate
19 the bond between the child and the other parent and to allow for a
20 continuing relationship between the child and the other parent;

21 (g) evidence of spousal abuse;

22 (h) whether a parent is subject to the registration requirements of the
23 Kansas offender registration act, K.S.A. 22-4901 et seq., and amendments
24 thereto, or any similar act in any other state, or under military or federal
25 law;

26 (i) whether a parent has been convicted of abuse of a child, K.S.A.
27 21-3609, prior to its repeal, or K.S.A. 2013 Supp. 21-5602, and
28 amendments thereto;

29 (j) whether a parent is residing with an individual who is subject to
30 registration requirements of the Kansas offender registration act, K.S.A.
31 22-4901 et seq., and amendments thereto, or any similar act in any other
32 state, or under military or federal law; and

33 (k) whether a parent is residing with an individual who has been
34 convicted of abuse of a child, K.S.A. 21-3609, prior to its repeal, or K.S.A.
35 2013 Supp. 21-5602, and amendments thereto.

36 Sec. 11. K.S.A. 2013 Supp. 23-3205 is hereby amended to read as
37 follows: 23-3205. There shall be a rebuttable presumption that it is not ~~in~~
38 ~~the best interest of the least detrimental alternative~~ for the child to have
39 custody or residency granted to a parent who: (a) Is residing with an
40 individual who is subject to registration requirements of the Kansas
41 offender registration act, K.S.A. 22-4901 et seq., and amendments thereto,
42 or any similar act in any other state, or under military or federal law; or

43 (b) is residing with an individual who has been convicted of abuse of

1 a child, K.S.A. 21-3609, prior to its repeal, or K.S.A. 2013 Supp. 21-5602,
2 and amendments thereto.

3 Sec. 12. K.S.A. 2013 Supp. 23-3206 is hereby amended to read as
4 follows: 23-3206. Subject to the provisions of this article, the court may
5 make any order relating to custodial arrangements which is ~~in the best~~
6 ~~interests of~~ *the least detrimental alternative* for the child. The order shall
7 provide one of the following legal custody arrangements, in the order of
8 preference:

9 (a) Joint legal custody. The court may order the joint legal custody of
10 a child with both parties. In that event, the parties shall have equal rights to
11 make decisions ~~in the best interests of~~ *that are the least detrimental*
12 *alternative* for the child.

13 (b) Sole legal custody. The court may order the sole legal custody of a
14 child with one of the parties when the court finds that it is not ~~in the best~~
15 ~~interests of~~ *the least detrimental alternative* for the child that both of the
16 parties have equal rights to make decisions pertaining to the child. If the
17 court does not order joint legal custody, the court shall include on the
18 record specific findings of fact upon which the order for sole legal custody
19 is based. The award of sole legal custody to one parent shall not deprive
20 the other parent of access to information regarding the child unless the
21 court shall so order, stating the reasons for that determination.

22 Sec. 13. K.S.A. 2013 Supp. 23-3207 is hereby amended to read as
23 follows: 23-3207. After making a determination of the legal custodial
24 arrangements, the court shall determine the residency of the child from the
25 following options, which arrangement the court must find to be ~~in the best~~
26 ~~interest of~~ *the least detrimental alternative* for the child. The parties shall
27 submit to the court either an agreed parenting plan or, in the case of
28 dispute, proposed parenting plans for the court's consideration. Such
29 options are:

30 (a) *Residency*. The court may order a residential arrangement in
31 which the child resides with one or both parents on a basis consistent with
32 ~~the best interests of~~ *least detrimental alternative* for the child.

33 (b) *Divided residency*. In an exceptional case, the court may order a
34 residential arrangement in which one or more children reside with each
35 parent and have parenting time with the other.

36 (c) *Nonparental residency*. If during the proceedings the court
37 determines that there is probable cause to believe that the child is a child in
38 need of care as defined by subsections (d)(1), (d)(2), (d)(3) or (d)(11) of
39 K.S.A. 2013 Supp. 38-2202, and amendments thereto, or that neither
40 parent is fit to have residency, the court may award temporary residency of
41 the child to a grandparent, aunt, uncle or adult sibling, or, another person
42 or agency if the court finds by written order that:

43 (1) (A) The child is likely to sustain harm if not immediately removed

1 from the home;

2 (B) allowing the child to remain in the home is contrary to the
3 welfare of the child; or

4 (C) immediate placement of the child is ~~in the best interest of the~~
5 *least detrimental alternative* for the child; and

6 (2) reasonable efforts have been made to maintain the family unit and
7 prevent the unnecessary removal of the child from the child's home or that
8 an emergency exists which threatens the safety of the child. In making
9 such a residency order, the court shall give preference, to the extent that
10 the court finds it is ~~in the best interests of the least detrimental alternative~~
11 *for* the child, first to awarding such residency to a relative of the child by
12 blood, marriage or adoption and second to awarding such residency to
13 another person with whom the child has close emotional ties. The court
14 may make temporary orders for care, support, education and visitation that
15 it considers appropriate. Temporary residency orders are to be entered in
16 lieu of temporary orders provided for in K.S.A. 2013 Supp. 38-2243 and
17 38-2244, and amendments thereto, and shall remain in effect until there is
18 a final determination under the revised Kansas code for care of children.
19 An award of temporary residency under this paragraph shall not terminate
20 parental rights nor give the court the authority to consent to the adoption of
21 the child. When the court enters orders awarding temporary residency of
22 the child to an agency or a person other than the parent, the court shall
23 refer a transcript of the proceedings to the county or district attorney. The
24 county or district attorney shall file a petition as provided in K.S.A. 2013
25 Supp. 38-2234, and amendments thereto, and may request termination of
26 parental rights pursuant to K.S.A. 2013 Supp. 38-2266, and amendments
27 thereto. The costs of the proceedings shall be paid from the general fund of
28 the county. When a final determination is made that the child is not a child
29 in need of care, the county or district attorney shall notify the court in
30 writing and the court, after a hearing, shall enter appropriate custody
31 orders pursuant to this article. If the same judge presides over both
32 proceedings, the notice is not required. Any order pursuant to the revised
33 Kansas code for care of children shall take precedence over any order
34 under this article.

35 Sec. 14. K.S.A. 2013 Supp. 23-3210 is hereby amended to read as
36 follows: 23-3210. (a) *Investigation and report*. In any proceeding in which
37 legal custody, residency, visitation rights or parenting time are contested,
38 the court may order an investigation and report concerning the appropriate
39 legal custody, residency, visitation rights and parenting time to be granted
40 to the parties. The investigation and report may be made by court services
41 officers or any consenting person or agency employed by the court for that
42 purpose. The court may use the ~~department of social and rehabilitation~~
43 *services Kansas department for children and families* to make the

1 investigation and report if no other source is available for that purpose.
2 The costs for making the investigation and report may be assessed as court
3 costs in the case as provided in article 20 of chapter 60 of the Kansas
4 Statutes Annotated, and amendments thereto.

5 (b) *Consultation.* In preparing the report concerning a child, the
6 investigator may consult any person who may have information about the
7 child and the potential legal custodial arrangements. Upon order of the
8 court, the investigator may refer the child to other professionals for
9 diagnosis. The investigator may consult with and obtain information from
10 medical, psychiatric or other expert persons who have served the child in
11 the past. If the requirements of subsection (c) are fulfilled, the
12 investigator's report may be received in evidence at the hearing.

13 (c) *Use of report and investigator's testimony.* The court shall make
14 the investigator's report available prior to the hearing to counsel or to any
15 party not represented by counsel. Upon motion of either party, the report
16 may be made available to a party represented by counsel, unless the court
17 finds that such distribution would be harmful to either party, the child or
18 other witnesses. Any party to the proceeding may call the investigator and
19 any person whom the investigator has consulted for cross-examination. In
20 consideration of the mental health *of or best interests of the least*
21 *detrimental alternative for the child*, the court may approve a stipulation
22 that the interview records not be divulged to the parties.

23 Sec. 15. K.S.A. 2013 Supp. 23-3211 is hereby amended to read as
24 follows: 23-3211. (a) "Temporary parenting plan" means an agreement or
25 order issued defining the legal custody, residency and parenting time to be
26 exercised by parents with regard to a child between the time of filing of a
27 matter in which a parenting plan may be entered, and any other provisions
28 regarding the child's care which may be ~~in the best interest of the least~~
29 *detrimental alternative for the child*, until a final order is issued.

30 (b) "Permanent parenting plan" means an agreement between parents
31 which is incorporated into an order at a final hearing or an order or decree
32 issued at a final hearing without agreement that establishes legal custody,
33 residency, parenting time and other matters regarding a child custody
34 arrangement in a matter in which a parenting plan may be entered.

35 (c) "Legal custody" means the allocation of parenting responsibilities
36 between parents, or any person acting as a parent, including decision
37 making rights and responsibilities pertaining to matters of child health,
38 education and welfare.

39 Sec. 16. K.S.A. 2013 Supp. 23-3212 is hereby amended to read as
40 follows: 23-3212. (a) The court may enter a temporary parenting plan in
41 any case in which temporary orders relating to child custody is authorized.

42 (b) If the court deems it appropriate, a temporary parenting plan
43 approved by the court may include one or more of the following

1 provisions regarding children involved in the matter before the court:

2 (1) Designation of the temporary legal custody of the child;

3 (2) designation of a temporary residence for the child;

4 (3) allocation of parental rights and responsibilities regarding matters
5 pertaining to the child's health, education and welfare;

6 (4) a schedule for the child's time with each parent, when appropriate.

7 (c) A parent seeking a temporary order in which matters of child
8 custody, residency, or parenting time are included shall file a proposed
9 temporary parenting plan contemporaneous with any request for issuance
10 of such temporary orders, which plan shall be served with any such
11 temporary orders.

12 (d) If the parent who has not filed a proposed temporary parenting
13 plan disputes the allocation of parenting responsibilities, residency,
14 parenting time or other matters included in the proposed temporary
15 parenting plan, that parent shall file and serve a responsive proposed
16 temporary parenting plan.

17 (e) Either parent may move to have a proposed temporary parenting
18 plan entered as part of a temporary order. The parents may enter an agreed
19 temporary parenting plan at any time as part of a temporary order.

20 (f) A parent may move for amendment of a temporary parenting plan,
21 and the court may order amendment to the temporary parenting plan, if the
22 amendment is ~~in the best interest of~~ *the least detrimental alternative for*
23 *the child.*

24 (g) If a proceeding for divorce, separate maintenance, annulment or
25 determination of parentage is dismissed, any temporary parenting plan is
26 vacated.

27 Sec. 17. K.S.A. 2013 Supp. 23-3213 is hereby amended to read as
28 follows: 23-3213. (a) The objectives of the permanent parenting plan are
29 to:

30 (1) Establish a proper allocation of parental rights and
31 responsibilities;

32 (2) establish an appropriate working relationship between the parents
33 such that matters regarding the health, education and welfare of their child
34 is best determined;

35 (3) provide for the child's physical care;

36 (4) set forth an appropriate schedule of parenting time;

37 (5) maintain the child's emotional stability;

38 (6) provide for the child's changing needs as the child grows and
39 matures in a way that minimizes the need for future modifications to the
40 permanent parenting plan;

41 (7) minimize the child's exposure to harmful parental conflict;

42 (8) encourage the parents, where appropriate, to meet their
43 responsibilities to their minor children through agreements in the

1 permanent parenting plan, rather than by relying on judicial intervention;
2 and

3 (9) ~~otherwise protect the best interests of~~ *provide for the least*
4 *detrimental alternative for the child.*

5 (b) A permanent parenting plan may consist of a general outline of
6 how parental responsibilities and parenting time will be shared and may
7 allow the parents to develop a more detailed agreement on an informal
8 basis; however, a permanent parenting plan must set forth the following
9 minimum provisions:

10 (1) Designation of the legal custodial relationship of the child;

11 (2) a schedule for the child's time with each parent, when appropriate;

12 (3) a provision for a procedure by which disputes between the parents
13 may be resolved without need for court intervention; and

14 (4) if either parent is a service member, as defined in K.S.A. 2013
15 Supp. 23-3217, and amendments thereto, provisions for custody and
16 parenting time upon military deployment, mobilization, temporary duty or
17 unaccompanied tour of such service member.

18 (c) A detailed permanent parenting plan shall include those provisions
19 required by subsection (b), and may include, but need not be limited to,
20 provisions relating to:

21 (1) Residential schedule;

22 (2) holiday, birthday and vacation planning;

23 (3) weekends, including holidays and school inservice days preceding
24 or following weekends;

25 (4) allocation of parental rights and responsibilities regarding matters
26 pertaining to the child's health, education and welfare;

27 (5) sharing of and access to information regarding the child;

28 (6) relocation of parents;

29 (7) telephone access;

30 (8) transportation; and

31 (9) methods for resolving disputes.

32 (d) The court shall develop a permanent parenting plan, which may
33 include such detailed provisions as the court deems appropriate, when:

34 (1) So requested by either parent; or

35 (2) the parent or parents are unable to develop a parenting plan.

36 Sec. 18. K.S.A. 2013 Supp. 23-3217 is hereby amended to read as
37 follows: 23-3217. (a) As used in this section:

38 (1) "Deployment" means the temporary transfer of a service member
39 serving in an active-duty status to another location in support of combat or
40 some other military operation.

41 (2) "Mobilization" means the call-up of a national guard or reserve
42 service member to extended active-duty status. "Mobilization" does not
43 include national guard or reserve annual training.

1 (3) "Service member" means any member serving in an active-duty
2 status in the armed forces of the United States, the national guard or the
3 armed forces reserves.

4 (4) "Temporary duty" means the transfer of a service member from
5 one military base to a different location for a limited period of time to
6 accomplish training or to assist in the performance of a noncombat
7 mission.

8 (5) "Unaccompanied tour" means a permanent change of station for a
9 service member where dependent travel is not authorized.

10 (6) "Nondeploying parent" means the parent not subject to
11 deployment, mobilization, temporary duty or unaccompanied tour orders
12 from the military.

13 (b) The absence, relocation or failure to comply with a custody or
14 parenting time order by a parent who has received deployment,
15 mobilization, temporary duty or unaccompanied tour orders from the
16 military, shall not, by itself, constitute a material change in circumstances
17 warranting a permanent modification of a custody or parenting time order.

18 (c) Any court order limiting previously ordered custodial or parenting
19 time rights of a parent due to the parent's deployment, mobilization,
20 temporary duty or unaccompanied tour shall specify the deployment,
21 mobilization, temporary duty or unaccompanied tour as the basis for the
22 order and shall be entered by the court as a temporary order. Any such
23 order shall further require the nondeploying parent to provide the court
24 with 30 days advance written notice of any change of address and any
25 change of telephone number.

26 (d) The court, on motion of the parent returning from deployment,
27 mobilization, temporary duty or unaccompanied tour, seeking to amend or
28 review the custody or parenting time order based upon such deployment,
29 mobilization, temporary duty or unaccompanied tour, shall set a hearing on
30 the matter that shall take precedence on the court's docket and shall be set
31 within 30 days of the filing of the motion. Service on the nondeploying
32 parent shall be at such nondeploying parent's last address provided to the
33 court in writing. Such service, if otherwise sufficient, shall be deemed
34 sufficient for the purposes of notice for this subsection. For purposes of
35 this hearing, such nondeploying parent shall bear the burden of showing
36 that reentry of the custody or parenting time order in effect prior to
37 deployment, mobilization, temporary duty or unaccompanied tour is no
38 longer ~~in the best interests of~~ *the least detrimental alternative* for the child.

39 (e) If the parties in a custody or parenting time matter concerning a
40 parent who receives deployment, mobilization, temporary duty or
41 unaccompanied tour orders from the military have entered into a parenting
42 plan pursuant to K.S.A. 2013 Supp. 23-3213, and amendments thereto,
43 that includes provisions for custody and parenting time upon military

1 deployment, mobilization, temporary duty or unaccompanied tour, it shall
2 be presumed that the agreement is ~~in the best interests of the least~~
3 *detrimental alternative for the child*. This presumption may be overcome
4 and the court may make a different order if the court makes specific
5 findings of fact stating why the agreed parenting plan is not ~~in the best~~
6 *interests of the least detrimental alternative for the child*.

7 (f) If a parent with parenting time rights receives deployment,
8 mobilization, temporary duty or unaccompanied tour orders from the
9 military that involve moving a substantial distance from the parent's
10 residence or otherwise have a material effect on the parent's ability to
11 exercise parenting time rights, the court may delegate the parent's
12 parenting time rights, or a portion thereof, to a member or members of the
13 service member's family with a close and substantial relationship to the
14 minor child for the duration of the parent's absence, if delegating parenting
15 time rights is ~~in the best interests of the least detrimental alternative for~~
16 *the child*.

17 (g) Upon motion of a parent who has received deployment,
18 mobilization, temporary duty or unaccompanied tour orders from the
19 military, the court shall, for good cause shown, hold an expedited hearing
20 in custody and parenting time matters instituted under this section when
21 the military duties of the parent have a material effect on the parent's
22 ability, or anticipated ability, to appear in person at a regularly scheduled
23 hearing.

24 (h) Nothing in this section shall preclude a parent from petitioning for
25 a modification of a custody or parenting time order based upon a material
26 change in circumstances.

27 (i) Any order entered pursuant to this section shall provide that:

28 (1) The nondeploying parent shall reasonably accommodate the leave
29 schedule of the parent subject to deployment, mobilization, temporary duty
30 or unaccompanied tour orders;

31 (2) the nondeploying parent shall facilitate opportunities for
32 telephonic and electronic mail contact between the parent subject to
33 deployment, mobilization, temporary duty or unaccompanied tour orders
34 and the child during the period of such deployment, mobilization,
35 temporary duty or unaccompanied tour; and

36 (3) the parent subject to deployment, mobilization, temporary duty or
37 unaccompanied tour shall provide timely information regarding such
38 parent's leave schedule to the nondeploying parent. Willful violation of
39 such order shall constitute contempt of court.

40 (j) Nothing in this section shall alter the duty of the court to
41 determine custody or parenting time matters in accordance with the ~~best~~
42 *interests of least detrimental alternative for the child*.

43 Sec. 19. K.S.A. 2013 Supp. 23-3221 is hereby amended to read as

1 follows: 23-3221. (a) The court may modify an order granting or denying
2 parenting time whenever modification would serve the ~~best interests of~~
3 *least detrimental alternative* for the child.

4 (b) Repeated unreasonable denial of or interference with parenting
5 time granted under this article may be considered a material change of
6 circumstances which justifies modification of a prior order of legal
7 custody, residency or parenting time.

8 (c) Any party may petition the court to modify an order granting
9 parenting time to require that the exchange or transfer of children for
10 parenting time take place at a child exchange and visitation center, as
11 established in K.S.A. 75-720, and amendments thereto.

12 Sec. 20. K.S.A. 2013 Supp. 23-3222 is hereby amended to read as
13 follows: 23-3222. (a) Except as provided in subsection (d), a parent
14 entitled to legal custody or residency of or parenting time with a child
15 under this article shall give written notice to the other parent not less than
16 30 days prior to: (1) Changing the residence of the child; or (2) removing
17 the child from this state for a period of time exceeding 90 days. Such
18 notice shall be sent by restricted mail, return receipt requested, to the last
19 known address of the other parent.

20 (b) Failure to give notice as required by subsection (a) is an indirect
21 civil contempt punishable as provided by law. In addition, the court may
22 assess, against the parent required to give notice, reasonable attorney fees
23 and any other expenses incurred by the other parent by reason of the
24 failure to give notice.

25 (c) A change of the residence or the removal of a child as described in
26 subsection (a) may be considered a material change of circumstances
27 which justifies modification of a prior order of legal custody, residency,
28 child support or parenting time. In determining any motion seeking a
29 modification of a prior order based on change of residence or removal as
30 described in (a), the court shall consider all factors the court deems
31 appropriate including, but not limited to: (1) *Whether* the effect of the
32 move ~~on the best interests of~~ *is the least detrimental alternative* for the
33 child; (2) the effect of the move on any party having rights granted under
34 this article; and (3) the increased cost the move will impose on any party
35 seeking to exercise rights granted under this article.

36 (d) A parent entitled to the legal custody or residency of a child under
37 this article shall not be required to give the notice required by this section
38 to the other parent when the other parent has been convicted of any crime
39 specified in article 34, 35 or 36 of chapter 21 of the Kansas Statutes
40 Annotated, prior to their repeal, or K.S.A. 2013 Supp. 21-5401 through 21-
41 5609, 21-6104, 21-6325, 21-6326, 21-6419, 21-6420 or 21-6421, and
42 amendments thereto, in which the child is the victim of such crime.

43 Sec. 21. K.S.A. 2013 Supp. 23-3301 is hereby amended to read as

1 follows: 23-3301. (a) In an action under article 27 of chapter 23 of the
2 Kansas Statutes Annotated, and amendments thereto, grandparents and
3 stepparents may be granted visitation rights.

4 (b) The district court may grant the grandparents of an unmarried
5 minor child reasonable visitation rights to the child during the child's
6 minority upon a finding that the visitation rights would be ~~in the child's~~
7 ~~best interests~~ *the least detrimental alternative for the child* and when a
8 substantial relationship between the child and the grandparent has been
9 established.

10 (c) The district court may grant the parents of a deceased person
11 visitation rights, or may enforce visitation rights previously granted,
12 pursuant to this section, even if the surviving parent has remarried and the
13 surviving parent's spouse has adopted the child. Visitation rights may be
14 granted pursuant to this subsection without regard to whether the adoption
15 of the child occurred before or after the effective date of this act.

16 Sec. 22. K.S.A. 2013 Supp. 23-3302 is hereby amended to read as
17 follows: 23-3302.

18 (a) The court may modify an order granting or denying parenting
19 time or visitation rights whenever modification would ~~serve the best~~
20 ~~interests of~~ *be the least detrimental alternative for the child*.

21 (b) Repeated unreasonable denial of or interference with visitation
22 rights or parenting time granted under K.S.A. 2013 Supp. 23-2711, and
23 amendments thereto, may be considered a material change of
24 circumstances which justifies modification of a prior order of legal
25 custody, residency or visitation rights.

26 (c) (1) The court may order exchange or visitation to take place at a
27 child exchange and visitation center, as established in K.S.A. 75-720, and
28 amendments thereto.

29 (2) Any party may petition the court to modify an order granting
30 visitation rights to require that the exchange or transfer of children for
31 visitation take place at a child exchange and visitation center, as
32 established in K.S.A. 75-720, and amendments thereto. The court may
33 modify an order granting visitation whenever modification would serve *as*
34 ~~the best interests of~~ *least detrimental alternative for the child*.

35 Sec. 23. K.S.A. 2013 Supp. 23-3403 is hereby amended to read as
36 follows: 23-3403. (a) Any custody or parenting time order, or order
37 relating to the ~~best interests of~~ *least detrimental alternative for* a child,
38 issued pursuant to the revised Kansas code for care of children or the
39 revised Kansas juvenile justice code, shall take precedence over any order
40 under article 32 or 33 of chapter 23 of the Kansas Statutes Annotated, and
41 amendments thereto, or K.S.A. 60-1610, prior to its repeal, until
42 jurisdiction under the revised Kansas code for care of children or the
43 revised Kansas juvenile justice code is terminated.

1 (b) An order granting visitation rights under article 33 of chapter 23
2 of the Kansas Statutes Annotated, and amendments thereto, or parenting
3 time under article 32 of chapter 23 of the Kansas Statutes Annotated, and
4 amendments thereto, may be enforced in accordance with the uniform
5 child custody jurisdiction and enforcement act, or this article.

6 Sec. 24. K.S.A. 2013 Supp. 23-3503 is hereby amended to read as
7 follows: 23-3503. (a) A mediator appointed under K.S.A. 2013 Supp. 23-
8 3502, and amendments thereto, shall:

9 (1) Inform the parties of the costs of mediation;

10 (2) advise the parties that the mediator does not represent either or
11 both of the parties;

12 (3) define and describe the process of mediation to the parties;

13 (4) disclose the nature and extent of any relationships with the parties
14 and any personal, financial or other interests which could result in bias or a
15 conflict of interest;

16 (5) advise each of the parties to obtain independent legal advice;

17 (6) allow only the parties to attend the mediation sessions;

18 (7) disclose to the parties' attorneys any factual documentation
19 revealed during the mediation if at the end of the mediation process the
20 disclosure is agreed to by the parties;

21 (8) ensure that the parties consider fully ~~the best interests of~~ *least*
22 *detrimental alternative* for the children and that the parties understand the
23 consequences of any decision they reach concerning the children; and

24 (9) inform the parties of the extent to which information obtained
25 from and about the participants through the mediation process is not
26 privileged and may be subject to disclosure.

27 (b) The mediator may meet with the children of any party and, with
28 the consent of the parties, may meet with other persons.

29 (c) The mediator shall make a written summary of any understanding
30 reached by the parties. A copy of the summary shall be provided to the
31 parties and their attorneys, if any. The mediator shall advise each party in
32 writing to obtain legal assistance in drafting any agreement or for
33 reviewing any agreement drafted by the other party. Any understanding
34 reached by the parties as a result of mediation shall not be binding upon
35 the parties nor admissible in court until it is reduced to writing, signed by
36 the parties and their attorneys, if any, and approved by the court. If the
37 parties are not represented by attorneys, the mediator shall provide to the
38 court or hearing officer the written summary of any understanding signed
39 by the parties, which, if approved by the court or hearing officer, shall be
40 incorporated in the order of the court or hearing officer.

41 (d) The mediator may act as a mediator in subsequent disputes
42 between the parties. However, the mediator shall decline to act as attorney,
43 counselor or psychotherapist for either party during or after the mediation

1 or divorce proceedings unless the subsequent representation, counseling or
2 treatment is clearly distinct from the mediation issues.

3 Sec. 25. K.S.A. 2013 Supp. 23-3510 is hereby amended to read as
4 follows: 23-3510. (a) *Family counseling*. At any time prior or subsequent
5 to the alteration of the parties' marital status, the court may order that any
6 party or parties and any of their children be interviewed by a psychiatrist,
7 licensed psychologist or other trained professional in family counseling,
8 approved by the court, for the purpose of determining whether it is ~~in the~~
9 ~~best interests of~~ *the least detrimental alternative* for any of the parties'
10 children that the parties and any of their children have counseling
11 regarding matters of legal custody, residency, visitation or parenting time.
12 The court shall receive the written opinion of the professional, and the
13 court shall make the opinion available as provided by K.S.A. 2013 Supp.
14 23-3210, and amendments thereto. Any professional consulted by the court
15 under this section may be examined as a witness. If the opinion of the
16 professional is that counseling is ~~in the best interests of~~ *the least*
17 *detrimental alternative* for any of the children, the court may order the
18 parties and any of the children to obtain counseling. Neither party shall be
19 required to obtain counseling pursuant to this section if the party objects
20 thereto because the counseling conflicts with sincerely held religious
21 tenets and practices to which any party is an adherent.

22 (b) *Costs*. The costs of the counseling shall be taxed to either party as
23 equity and justice require.

24 Sec. 26. K.S.A. 2013 Supp. 38-2202 is hereby amended to read as
25 follows: 38-2202. As used in the revised Kansas code for care of children,
26 unless the context otherwise indicates:

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

30 (b) "Adult correction facility" means any public or private facility,
31 secure or nonsecure, which is used for the lawful custody of accused or
32 convicted adult criminal offenders.

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

35 (d) "Child in need of care" means a person less than 18 years of age
36 at the time of filing of the petition or issuance of an ex parte protective
37 custody order pursuant to K.S.A. 2013 Supp. 38-2242, and amendments
38 thereto, who:

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

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

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

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

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

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

7 (7) except in the case of a violation of K.S.A. 41-727, subsection (j)
8 of K.S.A. 74-8810, subsection (m) or (n) of K.S.A. 79-3321, or subsection
9 (a)(14) of K.S.A. 2013 Supp. 21-6301, and amendments thereto, or, except
10 as provided in paragraph (12), does an act which, when committed by a
11 person under 18 years of age, is prohibited by state law, city ordinance or
12 county resolution but which is not prohibited when done by an adult;

13 (8) while less than 10 years of age, commits any act which if done by
14 an adult would constitute the commission of a felony or misdemeanor as
15 defined by K.S.A. 2013 Supp. 21-5102, and amendments thereto;

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

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

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

26 (12) while less than 10 years of age commits the offense defined in
27 subsection (a)(14) of K.S.A. 2013 Supp. 21-6301, and amendments
28 thereto; or

29 (13) has had a permanent custodian appointed and the permanent
30 custodian is no longer able or willing to serve.

31 (e) "Citizen review board" is a group of community volunteers
32 appointed by the court and whose duties are prescribed by K.S.A. 2013
33 Supp. 38-2207 and 38-2208, and amendments thereto.

34 (f) "Civil custody case" includes any case filed under chapter 23 of
35 the Kansas Statutes Annotated, and amendments thereto, the Kansas
36 family law code, article 11, of chapter 38 of the Kansas Statutes
37 Annotated, and amendments thereto, determination of parentage, article 21
38 of chapter 59 of the Kansas Statutes Annotated, and amendments thereto,
39 adoption and relinquishment act, or article 30 of chapter 59 of the Kansas
40 Statutes Annotated, and amendments thereto, guardians and conservators.

41 (g) "Court-appointed special advocate" means a responsible adult
42 other than an attorney guardian ad litem who is appointed by the court to
43 represent the ~~best interests of~~ *least detrimental alternative* for a child, as

1 provided in K.S.A. 2013 Supp. 38-2206, and amendments thereto, in a
2 proceeding pursuant to this code.

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

8 (i) "Extended out of home placement" means a child has been in the
9 custody of the secretary and placed with neither parent for 15 of the most
10 recent 22 months beginning 60 days after the date at which a child in the
11 custody of the secretary was removed from the home.

12 (j) "Educational institution" means all schools at the elementary and
13 secondary levels.

14 (k) "Educator" means any administrator, teacher or other professional
15 or paraprofessional employee of an educational institution who has
16 exposure to a pupil specified in subsection (a) of K.S.A. 72-89b03, and
17 amendments thereto.

18 (l) "Harm" means physical or psychological injury or damage.

19 (m) "Interested party" means the grandparent of the child, a person
20 with whom the child has been living for a significant period of time when
21 the child in need of care petition is filed, and any person made an
22 interested party by the court pursuant to K.S.A. 2013 Supp. 38-2241, and
23 amendments thereto, or Indian tribe seeking to intervene that is not a party.

24 (n) "Jail" means:

25 (1) An adult jail or lockup; or

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

36 (o) "Juvenile detention facility" means any secure public or private
37 facility used for the lawful custody of accused or adjudicated juvenile
38 offenders which must not be a jail.

39 (p) "Juvenile intake and assessment worker" means a responsible
40 adult authorized to perform intake and assessment services as part of the
41 intake and assessment system established pursuant to K.S.A. 75-7023, and
42 amendments thereto.

43 (q) "Kinship care" means the placement of a child in the home of the

1 child's relative or in the home of another adult with whom the child or the
2 child's parent already has a close emotional attachment.

3 (r) "Law enforcement officer" means any person who by virtue of
4 office or public employment is vested by law with a duty to maintain
5 public order or to make arrests for crimes, whether that duty extends to all
6 crimes or is limited to specific crimes.

7 (s) "Multidisciplinary team" means a group of persons, appointed by
8 the court under K.S.A. 2013 Supp. 38-2228, and amendments thereto,
9 which has knowledge of the circumstances of a child in need of care.

10 (t) "Neglect" means acts or omissions by a parent, guardian or person
11 responsible for the care of a child resulting in harm to a child, or
12 presenting a likelihood of harm, and the acts or omissions are not due
13 solely to the lack of financial means of the child's parents or other
14 custodian. Neglect may include, but shall not be limited to:

15 (1) Failure to provide the child with food, clothing or shelter
16 necessary to sustain the life or health of the child;

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

21 (3) failure to use resources available to treat a diagnosed medical
22 condition if such treatment will make a child substantially more
23 comfortable, reduce pain and suffering, or correct or substantially diminish
24 a crippling condition from worsening. A parent legitimately practicing
25 religious beliefs who does not provide specified medical treatment for a
26 child because of religious beliefs shall not for that reason be considered a
27 negligent parent; however, this exception shall not preclude a court from
28 entering an order pursuant to subsection (a)(2) of K.S.A. 2013 Supp. 38-
29 2217, and amendments thereto.

30 (u) "Parent" when used in relation to a child or children, includes a
31 guardian and every person who is by law liable to maintain, care for or
32 support the child.

33 (v) "Party" means the state, the petitioner, the child, any parent of the
34 child and an Indian child's tribe intervening pursuant to the Indian child
35 welfare act.

36 (w) "Permanency goal" means the outcome of the permanency
37 planning process which may be reintegration, adoption, appointment of a
38 permanent custodian or another planned permanent living arrangement.

39 (x) "Permanent custodian" means a judicially approved permanent
40 guardian of a child pursuant to K.S.A. 2013 Supp. 38-2272, and
41 amendments thereto.

42 (y) "Physical, mental or emotional abuse" means the infliction of
43 physical, mental or emotional harm or the causing of a deterioration of a

1 child and may include, but shall not be limited to, maltreatment or
2 exploiting a child to the extent that the child's health or emotional well-
3 being is endangered.

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

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

9 (bb) "Secretary" means the secretary of the department for children
10 and families or the secretary's designee.

11 (cc) "Secure facility" means a facility, other than a staff secure
12 facility which is operated or structured so as to ensure that all entrances
13 and exits from the facility are under the exclusive control of the staff of the
14 facility, whether or not the person being detained has freedom of
15 movement within the perimeters of the facility, or which relies on locked
16 rooms and buildings, fences or physical restraint in order to control
17 behavior of its residents. No secure facility shall be in a city or county jail.

18 (dd) "Sexual abuse" means any contact or interaction with a child in
19 which the child is being used for the sexual stimulation of the perpetrator,
20 the child or another person. Sexual abuse shall include allowing,
21 permitting or encouraging a child to engage in the sale of sexual relations
22 or commercial sexual exploitation of a child, or to be photographed, filmed
23 or depicted in pornographic material.

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

29 (ff) "Staff secure facility" means a facility described in K.S.A. 2013
30 Supp. 65-535, and amendments thereto: (1) That does not include
31 construction features designed to physically restrict the movements and
32 activities of juvenile residents who are placed therein; (2) that may
33 establish reasonable rules restricting entrance to and egress from the
34 facility; and (3) in which the movements and activities of individual
35 juvenile residents may, for treatment purposes, be restricted or subject to
36 control through the use of intensive staff supervision. No staff secure
37 facility shall be in a city or county jail.

38 (gg) "Transition plan" means, when used in relation to a youth in the
39 custody of the secretary, an individualized strategy for the provision of
40 medical, mental health, education, employment and housing supports as
41 needed for the adult and, if applicable, for any minor child of the adult, to
42 live independently and specifically provides for the supports and any
43 services for which an adult with a disability is eligible including, but not

1 limited to, funding for home and community based services waivers.

2 (hh) "Youth residential facility" means any home, foster home or
3 structure which provides 24-hour-a-day care for children and which is
4 licensed pursuant to article 5 of chapter 65 of the Kansas Statutes
5 Annotated, and amendments thereto.

6 Sec. 27. K.S.A. 2013 Supp. 38-2205 is hereby amended to read as
7 follows: 38-2205. (a) *Appointment of guardian ad litem and attorney for*
8 *child; duties.* Upon the filing of a petition, the court shall appoint an
9 attorney to serve as guardian ad litem for a child who is the subject of
10 proceedings under this code. The guardian ad litem shall make an
11 independent investigation of the facts upon which the petition is based and
12 shall appear for and represent the ~~best interests of~~ *least detrimental*
13 *alternative for* the child. When the child's position is not consistent with
14 the determination of the guardian ad litem as to the ~~child's best interests~~
15 *least detrimental alternative for the child*, the guardian ad litem shall
16 inform the court of the disagreement. The guardian ad litem or the child
17 may request the court to appoint a second attorney to serve as attorney for
18 the child, and the court, on good cause shown, may appoint such second
19 attorney. The attorney for the child shall allow the child and the guardian
20 ad litem to communicate with one another but may require such
21 communications to occur in the attorney's presence.

22 (b) *Attorney for parent or custodian.* A parent of a child alleged or
23 adjudged to be a child in need of care may be represented by an attorney,
24 in connection with all proceedings under this code. At the first hearing in
25 connection with proceedings under this code, the court shall distribute a
26 pamphlet, designed by the court, to the parents of a child alleged or
27 adjudged to be a child in need of care, to advise the parents of their rights
28 in connection with all proceedings under this code.

29 (1) If at any stage of the proceedings a parent desires but is
30 financially unable to employ an attorney, the court shall appoint an
31 attorney for the parent. It shall not be necessary to appoint an attorney to
32 represent a parent who fails or refuses to attend the hearing after having
33 been properly served with process in accordance with K.S.A. 2013 Supp.
34 38-2237, and amendments thereto. A parent or custodian who is not a
35 minor, a mentally ill person or a disabled person may waive counsel either
36 in writing or on the record.

37 (2) The court shall appoint an attorney for a parent who is a minor, a
38 mentally ill person or a disabled person unless the court determines that
39 there is an attorney retained who will appear and represent the interests of
40 the person in the proceedings under this code.

41 (3) As used in this subsection: (A) "Mentally ill person" shall have
42 the meaning ascribed thereto in K.S.A. 59-2946, and amendments thereto;
43 and (B) "disabled person" shall have the meaning ascribed thereto in

1 K.S.A. 77-201, and amendments thereto.

2 (c) *Attorney for interested parties.* A person who, pursuant to K.S.A.
3 2013 Supp. 38-2241, and amendments thereto, is an interested party in a
4 proceeding involving a child alleged to be a child in need of care may be
5 represented by an attorney in connection with all proceedings under this
6 code. At the first hearing in connection with proceedings under this code,
7 the court shall distribute a pamphlet, designed by the court, to interested
8 parties in a proceeding involving a child alleged or adjudged to be a child
9 in need of care, to advise interested parties of their rights in connection
10 with all proceedings under this code. It shall not be necessary to appoint an
11 attorney to represent an interested party who fails or refuses to attend the
12 hearing after having been properly served with process in accordance with
13 K.S.A. 2013 Supp. 38-2237, and amendments thereto. If at any stage of
14 the proceedings a person who is an interested party under subsection (d) of
15 K.S.A. 2013 Supp. 38-2241, and amendments thereto, desires but is
16 financially unable to employ an attorney, the court may appoint an attorney
17 for the interested party.

18 (d) *Continuation of representation.* A guardian ad litem appointed to
19 represent the ~~best interests of~~ *least detrimental alternative* for a child or a
20 second attorney appointed for a child as provided in subsection (a), or an
21 attorney appointed for a parent or custodian shall continue to represent the
22 client at all subsequent hearings in proceedings under this code, including
23 any appellate proceedings, unless relieved by the court upon a showing of
24 good cause or upon transfer of venue.

25 (e) *Fees for counsel.* An attorney appointed pursuant to this section
26 shall be allowed a reasonable fee for services, which may be assessed as
27 an expense in the proceedings as provided in K.S.A. 2013 Supp. 38-2215,
28 and amendments thereto.

29 Sec. 28. K.S.A. 2013 Supp. 38-2206 is hereby amended to read as
30 follows: 38-2206. (a) The court at any stage of a proceeding pursuant to
31 this code may appoint a special advocate for the child who shall serve until
32 discharged by the court and whose primary duties shall be to advocate the
33 ~~best interests of~~ *least detrimental alternative* for the child and assist the
34 child in obtaining a permanent, safe and homelike placement. The court-
35 appointed special advocate shall have such qualifications and perform such
36 specific duties and responsibilities as prescribed by rule of the supreme
37 court.

38 (b) Any person participating in a judicial proceeding as a court-
39 appointed special advocate shall be presumed prima facie to be acting in
40 good faith and in so doing shall be immune from any civil liability that
41 otherwise might be incurred or imposed.

42 Sec. 29. K.S.A. 2013 Supp. 38-2212 is hereby amended to read as
43 follows: 38-2212. (a) *Principle of appropriate access.* Information

1 contained in confidential agency records concerning a child alleged or
2 adjudicated to be in need of care may be disclosed as provided in this
3 section. Disclosure shall in all cases be guided by the principle of
4 providing access only to persons or entities with a need for information
5 that is directly related to achieving the purposes of this code.

6 (b) *Free exchange of information.* Pursuant to K.S.A. 2013 Supp. 38-
7 2210, and amendments thereto, the secretary and juvenile intake and
8 assessment agencies shall participate in the free exchange of information
9 concerning a child who is alleged or adjudicated to be in need of care.

10 (c) *Necessary access.* The following persons or entities shall have
11 access to information from agency records. Access shall be limited to
12 information reasonably necessary to carry out their lawful responsibilities,
13 to maintain their personal safety and the personal safety of individuals in
14 their care, or to educate, diagnose, treat, care for or protect a child alleged
15 to be in need of care. Information authorized to be disclosed pursuant to
16 this subsection shall not contain information which identifies a reporter of
17 a child who is alleged or adjudicated to be a child in need of care.

18 (1) A child named in the report or records, a guardian ad litem
19 appointed for the child and the child's attorney.

20 (2) A parent or other person responsible for the welfare of a child, or
21 such person's legal representative.

22 (3) A court-appointed special advocate for a child, a citizen review
23 board or other advocate which reports to the court.

24 (4) A person licensed to practice the healing arts or mental health
25 profession in order to diagnose, care for, treat or supervise: (A) A child
26 whom such service provider reasonably suspects may be in need of care;
27 (B) a member of the child's family; or (C) a person who allegedly abused
28 or neglected the child.

29 (5) A person or entity licensed or registered by the secretary of health
30 and environment or approved by the secretary of social and rehabilitation
31 services to care for, treat or supervise a child in need of care.

32 (6) A coroner or medical examiner when such person is determining
33 the cause of death of a child.

34 (7) The state child death review board established under K.S.A. 22a-
35 243, and amendments thereto.

36 (8) An attorney for a private party who files a petition pursuant to
37 subsection (b) of K.S.A. 2013 Supp. 38-2233, and amendments thereto.

38 (9) A foster parent, prospective foster parent, permanent custodian,
39 prospective permanent custodian, adoptive parent or prospective adoptive
40 parent. In order to assist such persons in making an informed decision
41 regarding acceptance of a particular child, to help the family anticipate
42 problems which may occur during the child's placement, and to help the
43 family meet the needs of the child in a constructive manner, the secretary

1 shall seek and shall provide the following information to such person's as
2 the information becomes available to the secretary:

3 (A) Strengths, needs and general behavior of the child;

4 (B) circumstances which necessitated placement;

5 (C) information about the child's family and the child's relationship to
6 the family which may affect the placement;

7 (D) important life experiences and relationships which may affect the
8 child's feelings, behavior, attitudes or adjustment;

9 (E) medical history of the child, including third-party coverage which
10 may be available to the child; and

11 (F) education history, to include present grade placement, special
12 strengths and weaknesses.

13 (10) The state protection and advocacy agency as provided by
14 subsection (a)(10) of K.S.A. 65-5603 or subsection (a)(2)(A) and (B) of
15 K.S.A. 74-5515, and amendments thereto.

16 (11) Any educational institution to the extent necessary to enable the
17 educational institution to provide the safest possible environment for its
18 pupils and employees.

19 (12) Any educator to the extent necessary to enable the educator to
20 protect the personal safety of the educator and the educator's pupils.

21 (13) Any other federal, state or local government executive branch
22 entity or any agent of such entity, having a need for such information in
23 order to carry out such entity's responsibilities under the law to protect
24 children from abuse and neglect.

25 (d) *Specified access.* The following persons or entities shall have
26 access to information contained in agency records as specified.
27 Information authorized to be disclosed pursuant to this subsection shall not
28 contain information which identifies a reporter of a child who is alleged or
29 adjudicated to be a child in need of care.

30 (1) Information from confidential agency records of the department
31 of social and rehabilitation services, a law enforcement agency or any
32 juvenile intake and assessment worker of a child alleged or adjudicated to
33 be in need of care shall be available to members of the standing house or
34 senate committee on judiciary, house committee on corrections and
35 juvenile justice, house committee on appropriations, senate committee on
36 ways and means, legislative post audit committee and any joint committee
37 with authority to consider children's and families' issues, when carrying
38 out such member's or committee's official functions in accordance with
39 K.S.A. 75-4319, and amendments thereto, in a closed or executive
40 meeting. Except in limited conditions established by $\frac{2}{3}$ of the members of
41 such committee, records and reports received by the committee shall not
42 be further disclosed. Unauthorized disclosure may subject such member to
43 discipline or censure from the house of representatives or senate. The

1 secretary of social and rehabilitation services shall not summarize the
2 outcome of department actions regarding a child alleged to be a child in
3 need of care in information available to members of such committees.

4 (2) The secretary of social and rehabilitation services may summarize
5 the outcome of department actions regarding a child alleged to be a child
6 in need of care to a person having made such report.

7 (3) Information from confidential reports or records of a child alleged
8 or adjudicated to be a child in need of care may be disclosed to the public
9 when:

10 (A) The individuals involved or their representatives have given
11 express written consent; or

12 (B) the investigation of the abuse or neglect of the child or the filing
13 of a petition alleging a child to be in need of care has become public
14 knowledge, provided, however, that the agency shall limit disclosure to
15 confirmation of procedural details relating to the handling of the case by
16 professionals.

17 (e) *Court order.* Notwithstanding the provisions of this section, a
18 court of competent jurisdiction, after in camera inspection, may order
19 disclosure of confidential agency records pursuant to a determination that
20 the disclosure is ~~in the best interests of~~ *the least detrimental alternative for*
21 the child who is the subject of the reports or that the records are necessary
22 for the proceedings of the court and otherwise admissible as evidence. The
23 court shall specify the terms of disclosure and impose appropriate
24 limitations.

25 (f) (1) Notwithstanding any other provision of law to the contrary,
26 except as provided in paragraph (4), in the event that child abuse or
27 neglect results in a child fatality or near fatality, reports or records of a
28 child alleged or adjudicated to be in need of care received by the secretary,
29 a law enforcement agency or any juvenile intake and assessment worker
30 shall become a public record and subject to disclosure pursuant to K.S.A.
31 45-215, and amendments thereto.

32 (2) Within seven days of receipt of a request in accordance with the
33 procedures adopted under K.S.A. 45-220, and amendments thereto, the
34 secretary shall notify any affected individual that an open records request
35 has been made concerning such records. The secretary or any affected
36 individual may file a motion requesting the court to prevent disclosure of
37 such record or report, or any select portion thereof. If the affected
38 individual does not file such motion within seven days of notification, and
39 the secretary has not filed a motion, the secretary shall release the reports
40 or records. If such motion is filed, the court shall consider the effect such
41 disclosure may have upon an ongoing criminal investigation, a pending
42 prosecution, or the privacy of the child, if living, or the child's siblings,
43 parents or guardians. The court shall make written findings on the record

1 justifying the closing of the records and shall provide a copy of the journal
2 entry to the affected parties and the individual requesting disclosure
3 pursuant to the Kansas open records act, K.S.A. 45-215 et seq., and
4 amendments thereto.

5 (3) For reports or records requested pursuant to this subsection, the
6 time limitations specified in this subsection shall control to the extent of
7 any inconsistency between this subsection and K.S.A. 45-218, and
8 amendments thereto. As used in this section, "near fatality" means an act
9 that, as certified by a person licensed to practice medicine and surgery,
10 places the child in serious or critical condition.

11 (4) Nothing in this subsection shall allow the disclosure of reports,
12 records or documents concerning the child and such child's biological
13 parents which were created prior to such child's adoption. Nothing herein
14 is intended to require that an otherwise privileged communication lose its
15 privileged character.

16 Sec. 30. K.S.A. 2013 Supp. 38-2213 is hereby amended to read as
17 follows: 38-2213. (a) *Principle of limited disclosure.* Information
18 contained in confidential law enforcement records concerning a child
19 alleged or adjudicated to be in need of care may be disclosed as provided
20 in this section. Disclosure shall in all cases be guided by the principle of
21 providing access only to persons or entities with a need for information
22 that is directly related to achieving the purposes of this code.

23 (b) *Free exchange of information.* Pursuant to K.S.A. 2013 Supp. 38-
24 2210, and amendments thereto, a law enforcement agency shall participate
25 in the free exchange of information concerning a child who is alleged or
26 adjudicated to be in need of care.

27 (c) *Access to information in law enforcement records.* In order to
28 discharge their official duties, the following persons or entities shall have
29 access to confidential law enforcement records concerning a child alleged
30 or adjudicated to be in need of care.

31 (1) The court having jurisdiction over the proceedings, including the
32 presiding judge and any court personnel designated by the judge.

33 (2) The secretary.

34 (3) The commissioner of juvenile justice.

35 (4) Law enforcement officers or county or district attorneys or their
36 staff.

37 (5) Any juvenile intake and assessment worker.

38 (6) Members of a court-appointed multidisciplinary team.

39 (7) Any other federal, state or local government executive branch
40 entity, or any agent of such entity, having a need for such information in
41 order to carry out such entity's responsibilities under law to protect
42 children from abuse and neglect.

43 (8) Persons or entities allowed access pursuant to subsection (f) of

1 K.S.A. 2013 Supp. 38-2212, and amendments thereto.

2 (d) *Necessary access.* The following persons or entities shall have
3 access to information from law enforcement records when reasonably
4 necessary to carry out their lawful responsibilities, to maintain their
5 personal safety and the personal safety of individuals in their care, or to
6 educate, diagnose, treat, care for or protect a child alleged or adjudicated
7 to be in need of care. Information authorized to be disclosed in this
8 subsection shall not contain information which identifies a reporter of a
9 child alleged or adjudicated to be a child in need of care.

10 (1) Any individual, or public or private agency authorized by a
11 properly constituted authority to diagnose, care for, treat or supervise a
12 child who is the subject of a report or record of child abuse or neglect,
13 including physicians, psychiatrists, nurses, nurse practitioners,
14 psychologists, licensed social workers, child development specialists,
15 physician assistants, community mental health workers, alcohol and drug
16 abuse counselors, and licensed or registered child care providers.

17 (2) School administrators shall have access to but shall not copy law
18 enforcement records and may disclose information to teachers,
19 paraprofessionals and other school personnel as necessary to meet the
20 educational needs of the child or to protect the safety of students and
21 school employees.

22 (3) The department of health and environment or persons authorized
23 by the department of health and environment pursuant to K.S.A. 65-512,
24 and amendments thereto, for the purposes of carrying out responsibilities
25 relating to licensure or registration of child care providers as required by
26 article 5 of chapter 65 of the Kansas Statutes Annotated, and amendments
27 thereto.

28 (e) *Legislative access.* Information from law enforcement records of a
29 child alleged or adjudicated to be in need of care shall be available to
30 members of the standing house or senate committee on judiciary, house
31 committee on corrections and juvenile justice, house committee on
32 appropriations, senate committee on ways and means, legislative post audit
33 committee and any joint committee with authority to consider children's
34 and families' issues, when carrying out such member's or committee's
35 official functions in accordance with K.S.A. 75-4319, and amendments
36 thereto, in a closed or executive meeting. Except in limited conditions
37 established by $\frac{2}{3}$ of the members of such committee, records and reports
38 received by the committee shall not be further disclosed. Unauthorized
39 disclosure may subject such member to discipline or censure from the
40 house of representatives or senate.

41 (f) *Court order.* Notwithstanding the provisions of this section, a
42 court of competent jurisdiction, after in camera inspection, may order
43 disclosure of confidential law enforcement records pursuant to a

1 determination that the disclosure is ~~in the best interests of the least~~
2 *detrimental alternative* for the child who is the subject of the reports or
3 that the records are necessary for the proceedings of the court and
4 otherwise admissible as evidence. The court shall specify the terms of
5 disclosure and impose appropriate limitations.

6 Sec. 31. K.S.A. 2013 Supp. 38-2226 is hereby amended to read as
7 follows: 38-2226. (a) *Investigation for child abuse or neglect.* The
8 secretary and law enforcement officers shall have the duty to receive and
9 investigate reports of child abuse or neglect for the purpose of determining
10 whether the report is valid and whether action is required to protect a
11 child. Any person or agency which maintains records relating to the
12 involved child which are relevant to any investigation conducted by the
13 secretary or law enforcement agency under this code shall provide the
14 secretary or law enforcement agency with the necessary records to assist in
15 investigations. In order to provide such records, the person or agency
16 maintaining the records shall receive from the secretary or law
17 enforcement: (1) A written request for information; and (2) a written notice
18 that the investigation is being conducted by the secretary or law
19 enforcement. If the secretary and such officers determine that no action is
20 necessary to protect the child but that a criminal prosecution should be
21 considered, such law enforcement officers shall make a report of the case to
22 the appropriate law enforcement agency.

23 (b) *Joint investigations.* When a report of child abuse or neglect
24 indicates: (1) That there is serious physical harm to, serious deterioration
25 of or sexual abuse of the child; and (2) that action may be required to
26 protect the child, the investigation shall be conducted as a joint effort
27 between the secretary and the appropriate law enforcement agency or
28 agencies, with a free exchange of information between them pursuant to
29 K.S.A. 2013 Supp. 38-2210, and amendments thereto. If a statement of a
30 suspect is obtained by either agency, a copy of the statement shall be
31 provided to the other.

32 (c) *Investigation of certain cases.* Suspected child abuse or neglect
33 which occurs in an institution operated by the secretary shall be
34 investigated by the attorney general. Any other suspected child abuse or
35 neglect by persons employed by the department of social and rehabilitation
36 services shall be investigated by the appropriate law enforcement agency.

37 (d) *Coordination of investigations by county or district attorney.* If a
38 dispute develops between agencies investigating a reported case of child
39 abuse or neglect, the appropriate county or district attorney shall take
40 charge of, direct and coordinate the investigation.

41 (e) *Investigations concerning certain facilities.* Any investigation
42 involving a facility subject to licensing or regulation by the secretary of
43 health and environment shall be promptly reported to the state secretary of

1 health and environment.

2 (f) *Cooperation between agencies.* Law enforcement agencies and the
3 secretary shall assist each other in taking action which is necessary to
4 protect a child regardless of which agency conducted the initial
5 investigation.

6 (g) *Cooperation between school personnel and investigative*
7 *agencies.* (1) Educational institutions, the secretary and law enforcement
8 agencies shall cooperate with each other in the investigation of reports of
9 suspected child abuse or neglect. The secretary and law enforcement
10 agencies shall have access to a child in a setting designated by school
11 personnel on the premises of an educational institution. Attendance at an
12 interview conducted on such premises shall be at the discretion of the
13 agency conducting the interview, giving consideration to the ~~best interests~~
14 ~~of least detrimental alternative~~ for the child. To the extent that safety and
15 practical considerations allow, law enforcement officers on such premises
16 for the purpose of investigating a report of suspected child abuse or
17 neglect shall not be in uniform.

18 (2) The secretary or a law enforcement officer may request the
19 presence of school personnel during an interview if the secretary or officer
20 determines that the presence of such person might provide comfort to the
21 child or facilitate the investigation.

22 Sec. 32. K.S.A. 2013 Supp. 38-2229 is hereby amended to read as
23 follows: 38-2229. (a) The secretary, a law enforcement officer, or a
24 multidisciplinary team appointed pursuant to K.S.A. 2013 Supp. 38-2228,
25 and amendments thereto, may request disclosure of documents, reports or
26 information in regard to a child, who is the subject of a report of abuse or
27 neglect, by making a written verified application to the district court. Upon
28 a finding by the court that there is probable cause to believe the
29 information sought will assist in the investigation of a report of child abuse
30 or neglect, the court may issue a subpoena, subpoena duces tecum or an
31 order for the production of the requested documents, reports or
32 information and directing the documents, reports or information to be
33 delivered to the applicant at a specific time, date and place.

34 (b) The time and date of delivery shall not be sooner than five days
35 after the service of the subpoena or order, excluding Saturdays, Sundays,
36 holidays, and days on which the office of the clerk of the court is not
37 accessible. The court issuing the subpoena or order shall keep all
38 applications filed pursuant to this subsection and a copy of the subpoena or
39 order in a special file maintained for that purpose. Upon receiving service
40 of a subpoena, subpoena duces tecum or an order for production pursuant
41 to this section, the person or agency served shall give oral or written notice
42 of service to any person known to have a right to assert a privilege or
43 assert a right of confidentiality in regard to the documents, reports or

1 information sought at least seven days before the date of delivery.

2 (c) Any parent, child, guardian ad litem, person or entity subpoenaed
3 or subject to an order of production or person or entity who claims a
4 privilege or right of confidentiality may request in writing that the court
5 issuing the subpoena or order of production quash the subpoena, subpoena
6 duces tecum or order for production issued pursuant to this section. The
7 request shall automatically stay the operation of the subpoena, subpoena
8 duces tecum or order for production and the documents, reports or
9 information requested shall not be delivered until the issuing court has
10 held a hearing to determine if the documents, reports or information are
11 subject to the claimed privilege or right of confidentiality, and whether it is
12 ~~in the best interests of~~ *the least detrimental alternative* for the child for the
13 subpoena or order to produce to be honored. The request to quash shall be
14 filed with the district court issuing the subpoena or order at least 24 hours
15 prior to the specified time and date of delivery, excluding Saturdays,
16 Sundays, holidays, or days on which the office of the clerk of the court is
17 not accessible, and a copy of the written request must be given to the
18 person subpoenaed or subject to the order for production at least 24 hours
19 prior to the specified time and date of delivery.

20 Sec. 33. K.S.A. 2013 Supp. 38-2231 is hereby amended to read as
21 follows: 38-2231. (a) A law enforcement officer or court services officer
22 shall take a child under 18 years of age into custody when:

23 (1) The law enforcement officer or court services officer has a court
24 order commanding that the child be taken into custody as a child in need
25 of care; or

26 (2) the law enforcement officer or court services officer has probable
27 cause to believe that a court order commanding that the child be taken into
28 custody as a child in need of care has been issued in this state or in another
29 jurisdiction.

30 (b) A law enforcement officer shall take a child under 18 years of age
31 into custody when the officer:

32 (1) Reasonably believes the child will be harmed if not immediately
33 removed from the place or residence where the child has been found;

34 (2) has probable cause to believe that the child is a missing person
35 and a verified missing person entry for the child can be found in the
36 national crime information center missing person system; or

37 (3) reasonably believes the child is a victim of human trafficking,
38 aggravated human trafficking or commercial sexual exploitation of a child.

39 (c) (1) If a person provides shelter to a child whom the person knows
40 is a runaway, such person shall promptly report the child's location either
41 to a law enforcement agency or to the child's parent or other custodian.

42 (2) If a person reports a runaway's location to a law enforcement
43 agency pursuant to this section and a law enforcement officer of the

1 agency has reasonable grounds to believe that it is ~~in the child's best~~
2 ~~interests~~ *the least detrimental alternative for the child*, the child may be
3 allowed to remain in the place where shelter is being provided, subject to
4 subsection (b), in the absence of a court order to the contrary. If the child is
5 allowed to so remain, the law enforcement agency shall promptly notify
6 the secretary of the child's location and circumstances.

7 (d) Except as provided in subsections (a) and (b), a law enforcement
8 officer may temporarily detain and assume temporary custody of any child
9 subject to compulsory school attendance, pursuant to K.S.A. 72-1111, and
10 amendments thereto, during the hours school is actually in session and
11 shall deliver the child pursuant to subsection (g) of K.S.A. 2013 Supp. 38-
12 2232, and amendments thereto.

13 Sec. 34. K.S.A. 2013 Supp. 38-2232 is hereby amended to read as
14 follows: 38-2232. (a) (1) To the extent possible, when any law
15 enforcement officer takes into custody a child under the age of 18 years
16 without a court order, the child shall forthwith be delivered to the custody
17 of the child's parent or other custodian unless there are reasonable grounds
18 to believe that such action would not be ~~in the best interests of~~ *the least*
19 *detrimental alternative for the child*.

20 (2) Except as provided in subsection (b), if the child is not delivered
21 to the custody of the child's parent or other custodian, the child shall
22 forthwith be delivered to a shelter facility designated by the court, court
23 services officer, juvenile intake and assessment worker, licensed attendant
24 care center or other person or, if the child is 15 years of age or younger, or
25 16 or 17 years of age if the child has no identifiable parental or family
26 resources or shows signs of physical, mental, emotional or sexual abuse, to
27 a facility or person designated by the secretary.

28 (3) If, after delivery of the child to a shelter facility, the person in
29 charge of the shelter facility at that time and the law enforcement officer
30 determine that the child will not remain in the shelter facility and if the
31 child is presently alleged, but not yet adjudicated, to be a child in need of
32 care solely pursuant to subsection (d)(9) or (d)(10) of K.S.A. 2013 Supp.
33 38-2202, and amendments thereto, the law enforcement officer shall
34 deliver the child to a juvenile detention facility or other secure facility,
35 designated by the court, where the child shall be detained for not more
36 than 24 hours, excluding Saturdays, Sundays, legal holidays, and days on
37 which the office of the clerk of the court is not accessible.

38 (4) No child taken into custody pursuant to this code shall be placed
39 in a juvenile detention facility or other secure facility, except as authorized
40 by this section and by K.S.A. 2013 Supp. 38-2242, 38-2243 and 38-2260,
41 and amendments thereto.

42 (5) It shall be the duty of the law enforcement officer to furnish to the
43 county or district attorney, without unnecessary delay, all the information

1 in the possession of the officer pertaining to the child, the child's parents or
2 other persons interested in or likely to be interested in the child and all
3 other facts and circumstances which caused the child to be taken into
4 custody.

5 (b) (1) When any law enforcement officer takes into custody any
6 child as provided in subsection (b)(2) of K.S.A. 2013 Supp. 38-2231, and
7 amendments thereto, proceedings shall be initiated in accordance with the
8 provisions of the interstate compact on juveniles, K.S.A. 38-1001 et seq.,
9 and amendments thereto, or K.S.A. 2013 Supp. 38-1008, and amendments
10 thereto, when effective. Any child taken into custody pursuant to the
11 interstate compact on juveniles may be detained in a juvenile detention
12 facility or other secure facility.

13 (2) When any law enforcement officer takes into custody any child as
14 provided in subsection (b)(3) of K.S.A. 2013 Supp. 38-2231, and
15 amendments thereto, the law enforcement officer shall place the child in
16 protective custody and may deliver the child to a staff secure facility. The
17 law enforcement officer shall contact the department for children and
18 families to begin an assessment to determine safety, placement and
19 treatment needs for the child. Such child shall not be placed in a juvenile
20 detention facility or other secure facility, except as authorized by this
21 section and by K.S.A. 2013 Supp. 38-2242, 38-2243 and 38-2260, and
22 amendments thereto.

23 (c) Whenever a child under the age of 18 years is taken into custody
24 by a law enforcement officer without a court order and is thereafter placed
25 as authorized by subsection (a), the facility or person shall, upon written
26 application of the law enforcement officer, have physical custody and
27 provide care and supervision for the child. The application shall state:

28 (1) The name and address of the child, if known;

29 (2) the names and addresses of the child's parents or nearest relatives
30 and persons with whom the child has been residing, if known; and

31 (3) the officer's belief that the child is a child in need of care and that
32 there are reasonable grounds to believe that the circumstances or condition
33 of the child is such that the child would be harmed unless placed in the
34 immediate custody of the shelter facility or other person.

35 (d) A copy of the application shall be furnished by the facility or
36 person receiving the child to the county or district attorney without
37 unnecessary delay.

38 (e) The shelter facility or other person designated by the court who
39 has custody of the child pursuant to this section shall discharge the child
40 not later than 72 hours following admission, excluding Saturdays,
41 Sundays, legal holidays, and days on which the office of the clerk of the
42 court is not accessible, unless a court has entered an order pertaining to
43 temporary custody or release.

1 (f) In absence of a court order to the contrary, the county or district
2 attorney or the placing law enforcement agency shall have the authority to
3 direct the release of the child at any time.

4 (g) When any law enforcement officer takes into custody any child as
5 provided in subsection (d) of K.S.A. 2013 Supp. 38-2231, and
6 amendments thereto, the child shall forthwith be delivered to the school in
7 which the child is enrolled, any location designated by the school in which
8 the child is enrolled or the child's parent or other custodian.

9 Sec. 35. K.S.A. 2013 Supp. 38-2234 is hereby amended to read as
10 follows: 38-2234. (a) *Filing and contents of petition.* (1) A petition filed to
11 commence an action pursuant to this code shall be filed with the clerk of
12 the district court and shall state, if known:

13 (A) The name, date of birth and residence address of the child;

14 (B) the name and residence address of the child's parents;

15 (C) the name and address of the child's nearest known relative if no
16 parent can be found;

17 (D) the name and residence address of any persons having custody or
18 control of the child; and

19 (E) plainly and concisely in the language of the statutory definition,
20 the basis for the petition.

21 (2) The petition shall also state the specific facts which are relied
22 upon to support the allegation referred to in the preceding paragraph
23 including any known dates, times and locations.

24 (3) The proceedings shall be entitled: "In the Interest of
25 _____."

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

28 (5) The petition shall contain a request that the parent or parents be
29 ordered to pay child support. The request for child support may be omitted
30 with respect to a parent already ordered to pay child support for the child
31 and shall be omitted with respect to one or both parents upon written
32 request of the secretary.

33 (6) If the petition requests custody of the child to the secretary or a
34 person other than the child's parent, the petition shall specify the efforts
35 known to the petitioner to have been made to maintain the family and
36 prevent the transfer of custody, or it shall specify the facts demonstrating
37 that an emergency exists which threatens the safety to the child.

38 (7) If the petition requests removal of the child from the child's home,
39 in addition to the information required by K.S.A. 2013 Supp. 38-2234 (a)
40 (6), and amendments thereto, the petition shall specify the facts
41 demonstrating that allowing the child to remain in the home would be
42 contrary to the welfare of the child or that placement is ~~in the best interests~~
43 ~~of the least detrimental alternative~~ for the child and the child is likely to

1 sustain harm if not removed from the home.

2 (8) The petition shall contain the following statement: "If you do not
3 appear in court the court will be making decisions without your input
4 which could result in:

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

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

9 (C) the permanent termination of one or both of the parents' parental
10 rights; and

11 (D) the appointment of a permanent custodian for the child.

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

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

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

22 Sec. 36. K.S.A. 2013 Supp. 38-2241 is hereby amended to read as
23 follows: 38-2241. (a) *Jurisdiction of the court*. Parties and interested
24 parties in a child in need of care proceedings are subject to the jurisdiction
25 of the court.

26 (b) *Rights of parties*. Subject to the authority of the court to rule on
27 the admissibility of evidence and provide for the orderly conduct of the
28 proceedings, the rights of parties to participate in a child in need of care
29 proceeding include, but are not limited to:

30 (1) Notice in accordance with K.S.A. 2013 Supp. 38-2236 and 38-
31 2239, and amendments thereto;

32 (2) present oral or written evidence and argument, to call and cross-
33 examine witnesses; and

34 (3) representation by an attorney in accordance with K.S.A. 2013
35 Supp. 38-2205, and amendments thereto.

36 (c) *Grandparents as interested parties*. (1) A grandparent of the child
37 shall be an interested party to a child in need of care proceeding.

38 (2) Grandparents shall have the participatory rights of parties
39 pursuant to subsection (b), except that the court may restrict those rights if
40 the court finds that it would be ~~in the best interests of~~ *the least detrimental*
41 *alternative for* the child. A grandparent may not be prevented under this
42 paragraph from attending the proceedings, having access to the child's
43 official file in the court records or making a statement to the court.

1 (d) *Persons with whom the child has been residing as interested*
2 *parties.* (1) Any person with whom the child has resided for a significant
3 period of time within six months of the date the child in need of care
4 petition is filed shall be made an interested party, if such person notifies
5 the court of such person's desire to become an interested party.
6 Notification may be made in writing, orally or by appearance at the initial
7 or a subsequent hearing on the child in need of care petition.

8 (2) Persons with interested party status under this subsection shall
9 have the participatory rights of parties pursuant to subsection (b), except
10 that the court may restrict those rights if the court finds that it would be ~~in~~
11 ~~the best interests of the least detrimental alternative for~~ the child.

12 (e) *Other interested parties.* (1) Any person with whom the child has
13 resided at any time, who is within the fourth degree of relationship to the
14 child, or to whom the child has close emotional ties may, upon motion, be
15 made an interested party if the court determines that it is ~~in the best~~
16 ~~interests of the least detrimental alternative for~~ the child.

17 (2) Any other person or Indian tribe seeking to intervene that is not a
18 party may, upon motion, be made an interested party if the court
19 determines that the person or tribe has a sufficient relationship with the
20 child to warrant interested party status or that the person's or tribe's
21 participation would be beneficial to the proceedings.

22 (3) The court may, upon its own motion, make any person an
23 interested party if the court determines that interested party status would
24 be ~~in the best interests of the least detrimental alternative for~~ the child.

25 (f) *Procedure for determining, denying or terminating interested*
26 *party status.* (1) Upon the request of the court, the secretary shall
27 investigate the advisability of granting interested party status under this
28 section and report findings and recommendations to the court.

29 (2) The court may deny or terminate interested party status under this
30 subsection if the court determines, after notice and a hearing, that a person
31 does not qualify for interested party status or that there is good cause to
32 deny or terminate interested party status.

33 (3) A person who is denied interested party status or whose status as
34 an interested party has been terminated may petition for review of the
35 denial or termination by the chief judge of the district in which the court
36 having jurisdiction over the child in need of care proceeding is located, or
37 a judge designated by the chief judge. The chief judge or the chief judge's
38 designee shall review the denial or termination within 30 days of receiving
39 the petition. The child in need of care proceeding shall not be stayed
40 pending resolution of the petition for review.

41 Sec. 37. K.S.A. 2013 Supp. 38-2242 is hereby amended to read as
42 follows: 38-2242. (a) The court, upon verified application, may issue ex
43 parte an order directing that a child be held in protective custody and, if

1 the child has not been taken into custody, an order directing that the child
2 be taken into custody. The application shall state for each child:

- 3 (1) The applicant's belief that the child is a child in need of care;
- 4 (2) that the child is likely to sustain harm if not immediately removed
5 from the home;
- 6 (3) that allowing the child to remain in the home is contrary to the
7 welfare of the child; and
- 8 (4) the facts relied upon to support the application, including efforts
9 known to the applicant to maintain the family unit and prevent the
10 unnecessary removal of the child from the child's home, or the specific
11 facts supporting that an emergency exists which threatens the safety of the
12 child.

13 (b) (1) The order of protective custody may be issued only after the
14 court has determined there is probable cause to believe the allegations in
15 the application are true. The order shall remain in effect until the
16 temporary custody hearing provided for in K.S.A. 2013 Supp. 38-2243,
17 and amendments thereto, unless earlier rescinded by the court.

18 (2) No child shall be held in protective custody for more than 72
19 hours, excluding Saturdays, Sundays, legal holidays, and days on which
20 the office of the clerk of the court is not accessible, unless within the 72-
21 hour period a determination is made as to the necessity for temporary
22 custody in a temporary custody hearing. The time spent in custody
23 pursuant to K.S.A. 2013 Supp. 38-2232, and amendments thereto, shall be
24 included in calculating the 72-hour period. Nothing in this subsection shall
25 be construed to mean that the child must remain in protective custody for
26 72 hours. If a child is in the protective custody of the secretary, the
27 secretary shall allow at least one supervised visit between the child and the
28 parent or parents within such time period as the child is in protective
29 custody. The court may prohibit such supervised visit if the court
30 determines it is not ~~in the best interest of~~ *the least detrimental alternative*
31 *for* the child.

32 (c) (1) Whenever the court determines the necessity for an order of
33 protective custody, the court may place the child in the protective custody of
34 of:

35 (A) A parent or other person having custody of the child and may
36 enter a restraining order pursuant to subsection (e);

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

40 (C) a youth residential facility;

41 (D) a shelter facility;

42 (E) a staff secure facility, notwithstanding any other provision of law,
43 if the child has been subjected to human trafficking or aggravated human

1 trafficking, as defined by K.S.A. 2013 Supp. 21-5426, and amendments
2 thereto, or commercial sexual exploitation of a child, as defined by K.S.A.
3 2013 Supp. 21-6422, and amendments thereto, or the child committed an
4 act which, if committed by an adult, would constitute a violation of K.S.A.
5 2013 Supp. 21-6419, and amendments thereto; or

6 (F) the secretary, if the child is 15 years of age or younger, or 16 or
7 17 years of age if the child has no identifiable parental or family resources
8 or shows signs of physical, mental, emotional or sexual abuse.

9 (2) If the secretary presents the court with a plan to provide services
10 to a child or family which the court finds will assure the safety of the
11 child, the court may only place the child in the protective custody of the
12 secretary until the court finds the services are in place. The court shall
13 have the authority to require any person or entity agreeing to participate in
14 the plan to perform as set out in the plan. When the child is placed in the
15 protective custody of the secretary, the secretary shall have the
16 discretionary authority to place the child with a parent or to make other
17 suitable placement for the child. When the child is placed in the temporary
18 custody of the secretary and the child has been subjected to human
19 trafficking or aggravated human trafficking, as defined by K.S.A. 2013
20 Supp. 21-5426, and amendments thereto, or commercial sexual
21 exploitation of a child, as defined by K.S.A. 2013 Supp. 21-6422, and
22 amendments thereto, or the child committed an act which, if committed by
23 an adult, would constitute a violation of K.S.A. 2013 Supp. 21-6419, and
24 amendments thereto, the secretary shall have the discretionary authority to
25 place the child in a staff secure facility, notwithstanding any other
26 provision of law. When the child is presently alleged, but not yet
27 adjudicated, to be a child in need of care solely pursuant to subsection (d)
28 (9) or (d)(10) of K.S.A. 2013 Supp. 38-2202, and amendments thereto, the
29 child may be placed in a juvenile detention facility or other secure facility
30 pursuant to an order of protective custody for a period of not to exceed 24
31 hours, excluding Saturdays, Sundays, legal holidays, and days on which
32 the office of the clerk of the court is not accessible.

33 (d) The order of protective custody shall be served pursuant to
34 subsection (a) of K.S.A. 2013 Supp. 38-2237, and amendments thereto, on
35 the child's parents and any other person having legal custody of the child.
36 The order shall prohibit the removal of the child from the court's
37 jurisdiction without the court's permission.

38 (e) If the court issues an order of protective custody, the court may
39 also enter an order restraining any alleged perpetrator of physical, sexual,
40 mental or emotional abuse of the child from residing in the child's home;
41 visiting, contacting, harassing or intimidating the child, other family
42 member or witness; or attempting to visit, contact, harass or intimidate the
43 child, other family member or witness. Such restraining order shall be

1 served by personal service pursuant to subsection (a) of K.S.A. 2013 Supp.
2 38-2237, and amendments thereto, on any alleged perpetrator to whom the
3 order is directed.

4 (f) (1) The court shall not enter the initial order removing a child
5 from the custody of a parent pursuant to this section unless the court first
6 finds probable cause that: (A) (i) The child is likely to sustain harm if not
7 immediately removed from the home;

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

10 (iii) immediate placement of the child is ~~in the best interest of the~~
11 *least detrimental alternative* for the child; and

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

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

19 Sec. 38. K.S.A. 2013 Supp. 38-2243 is hereby amended to read as
20 follows: 38-2243. (a) Upon notice and hearing, the court may issue an
21 order directing who shall have temporary custody and may modify the
22 order during the pendency of the proceedings as will best serve the child's
23 welfare.

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

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

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

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

43 (f) The court may enter an order of temporary custody after

1 determining there is probable cause to believe that the: (1) Child is
2 dangerous to self or to others; (2) child is not likely to be available within
3 the jurisdiction of the court for future proceedings; (3) health or welfare of
4 the child may be endangered without further care; (4) child has been
5 subjected to human trafficking or aggravated human trafficking, as defined
6 by K.S.A. 2013 Supp. 21-5426, and amendments thereto, or commercial
7 sexual exploitation of a child, as defined by K.S.A. 2013 Supp. 21-6422,
8 and amendments thereto; or (5) child committed an act which, if
9 committed by an adult, would constitute a violation of K.S.A. 2013 Supp.
10 21-6419, and amendments thereto.

11 (g) (1) Whenever the court determines the necessity for an order of
12 temporary custody the court may place the child in the temporary custody
13 of:

14 (A) A parent or other person having custody of the child and may
15 enter a restraining order pursuant to subsection (h);

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

19 (C) a youth residential facility;

20 (D) a shelter facility;

21 (E) a staff secure facility, notwithstanding any other provision of law,
22 if the child has been subjected to human trafficking or aggravated human
23 trafficking, as defined by K.S.A. 2013 Supp. 21-5426, and amendments
24 thereto, or commercial sexual exploitation of a child, as defined by K.S.A.
25 2013 Supp. 21-6422, and amendments thereto, or the child committed an
26 act which, if committed by an adult, would constitute a violation of K.S.A.
27 2013 Supp. 21-6419, and amendments thereto; or

28 (F) the secretary, if the child is 15 years of age or younger, or 16 or
29 17 years of age if the child has no identifiable parental or family resources
30 or shows signs of physical, mental, emotional or sexual abuse.

31 (2) If the secretary presents the court with a plan to provide services
32 to a child or family which the court finds will assure the safety of the
33 child, the court may only place the child in the temporary custody of the
34 secretary until the court finds the services are in place. The court shall
35 have the authority to require any person or entity agreeing to participate in
36 the plan to perform as set out in the plan. When the child is placed in the
37 temporary custody of the secretary, the secretary shall have the
38 discretionary authority to place the child with a parent or to make other
39 suitable placement for the child. When the child is placed in the temporary
40 custody of the secretary and the child has been subjected to human
41 trafficking or aggravated human trafficking, as defined by K.S.A. 2013
42 Supp. 21-5426, and amendments thereto, or commercial sexual
43 exploitation of a child, as defined by K.S.A. 2013 Supp. 21-6422, and

1 amendments thereto, or the child committed an act which, if committed by
2 an adult, would constitute a violation of K.S.A. 2013 Supp. 21-6419, and
3 amendments thereto, the secretary shall have the discretionary authority to
4 place the child in a staff secure facility, notwithstanding any other
5 provision of law. When the child is presently alleged, but not yet
6 adjudicated to be a child in need of care solely pursuant to subsection (d)
7 (9) or (d)(10) of K.S.A. 2013 Supp. 38-2202, and amendments thereto, the
8 child may be placed in a juvenile detention facility or other secure facility,
9 but the total amount of time that the child may be held in such facility
10 under this section and K.S.A. 2013 Supp. 38-2242, and amendments
11 thereto, shall not exceed 24 hours, excluding Saturdays, Sundays, legal
12 holidays, and days on which the office of the clerk of the court is not
13 accessible. The order of temporary custody shall remain in effect until
14 modified or rescinded by the court or an adjudication order is entered but
15 not exceeding 60 days, unless good cause is shown and stated on the
16 record.

17 (h) If the court issues an order of temporary custody, the court may
18 also enter an order restraining any alleged perpetrator of physical, sexual,
19 mental or emotional abuse of the child from residing in the child's home;
20 visiting, contacting, harassing or intimidating the child; or attempting to
21 visit, contact, harass or intimidate the child, other family members or
22 witnesses. Such restraining order shall be served by personal service
23 pursuant to subsection (a) of K.S.A. 2013 Supp. 38-2237, and amendments
24 thereto, on any alleged perpetrator to whom the order is directed.

25 (i) (1) The court shall not enter the initial order removing a child from
26 the custody of a parent pursuant to this section unless the court first finds
27 probable cause that: (A) (i) The child is likely to sustain harm if not
28 immediately removed from the home;

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

31 (iii) immediate placement of the child is ~~in the best interest of~~ *least*
32 *detrimental alternative for* the child; and

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

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

39 (j) If the court enters an order of temporary custody that provides for
40 placement of the child with a person other than the parent, the court shall
41 make a child support determination pursuant to K.S.A. 2013 Supp. 38-
42 2277, and amendments thereto.

43 Sec. 39. K.S.A. 2013 Supp. 38-2244 is hereby amended to read as

1 follows: 38-2244. (a) At any time after filing a petition, but prior to an
2 adjudication, the court may enter an order for continuance and informal
3 supervision without an adjudication if no party objects. Upon granting the
4 continuance, the court shall include in the order any conditions with which
5 the parties and interested parties are expected to comply and provide the
6 parties and interested parties with a copy of the order. The conditions may
7 include appropriate dispositional alternatives authorized by K.S.A. 2013
8 Supp. 38-2255, and amendments thereto.

9 (b) An order for informal supervision may remain in force for a
10 period of up to six months and may be extended, upon hearing, for an
11 additional six-month period for a total of one year. For a child under an
12 order for informal supervision who remains in the custody of such child's
13 parent, such one-year period may be extended if no party objects, upon
14 hearing, for up to an additional one year, with reviews by the court
15 occurring at least every six months.

16 (c) The court after notice and hearing may revoke or modify the order
17 with respect to a party or interested party upon a showing that the party or
18 interested party, being subject to the order for informal supervision, has
19 substantially failed to comply with the terms of the order, or that
20 modification would be ~~in the best interests of~~ *the least detrimental*
21 *alternative for the child.* Upon revocation, proceedings shall resume
22 pursuant to this code.

23 (d) Persons subject to the order for informal supervision who
24 successfully complete the terms and period of supervision shall not again
25 be proceeded against in any court based solely upon the allegations in the
26 original petition and the proceedings shall be dismissed.

27 (e) If the court issues an order for informal supervision pursuant to
28 this section, the court may also enter an order restraining any alleged
29 perpetrator of physical, mental or emotional abuse or sexual abuse of the
30 child from residing in the child's home, visiting, contacting, harassing or
31 intimidating the child, other family member or witness; or attempting to
32 visit, contact, harass or intimidate the child, other family member or
33 witness. The restraining order shall be served by personal service pursuant
34 to subsection (a) of K.S.A. 2013 Supp. 38-2237, and amendments thereto,
35 on any alleged perpetrator to whom the order is directed.

36 (f) Lack of service on a parent shall not preclude an informal
37 supervision under the provisions of this section. If an order of informal
38 supervision is entered which effects change in custody, any parent not
39 served pursuant to K.S.A. 2013 Supp. 38-2237, and amendments thereto,
40 who has not consented to the informal supervision, may request
41 reconsideration of the order of informal supervision. The court shall hear
42 the request without unnecessary delay. If the informal supervision order
43 effects a change in custody, efforts to accomplish service pursuant to

1 K.S.A. 2013 Supp. 38-2237, and amendments thereto, shall continue.

2 Sec. 40. K.S.A. 2013 Supp. 38-2247 is hereby amended to read as
3 follows: 38-2247. (a) *Adjudication*. Proceedings prior to and including
4 adjudication under this code shall be open to attendance by any person
5 unless the court determines that closed proceedings or the exclusion of that
6 person would be ~~in the best interests of~~ *the least detrimental alternative*
7 *for the child* or is necessary to protect the privacy rights of the parents.

8 (1) The court may not exclude the guardian ad litem, parties and
9 interested parties.

10 (2) Members of the news media shall comply with supreme court rule
11 ~~10.01~~ 1001.

12 (b) *Disposition*. Proceedings pertaining to the disposition of a child
13 adjudicated to be in need of care shall be closed to all persons except the
14 parties, the guardian ad litem, interested parties and their attorneys,
15 officers of the court, a court appointed special advocate and the custodian.

16 (1) Other persons may be permitted to attend with the consent of the
17 parties or by order of the court, if the court determines that it would be ~~in~~
18 ~~the best interests of~~ *the least detrimental alternative for the child* or the
19 conduct of the proceedings, subject to such limitations as the court
20 determines to be appropriate.

21 (2) The court may exclude any person if the court determines that
22 such person's exclusion would be ~~in the best interests of~~ *the least*
23 *detrimental alternative for the child* or the conduct of the proceedings.

24 (c) Notwithstanding subsections (a) and (b) of this section, the court
25 shall permit the attendance at the proceedings of up to two people
26 designated by the parent of the child, both of whom have participated in a
27 parent ally orientation program approved by the judicial administrator.

28 (1) Such parent ally orientation program shall include, but not be
29 limited to, information concerning the confidentiality of the proceedings;
30 the child and parent's right to counsel; the definitions and jurisdiction
31 pursuant to the Kansas code for care of children; the types and purposes of
32 the hearings; options for informal supervision and dispositions; placement
33 options; the parents' obligation to financially support the child while the
34 child is in the state's custody; obligations of the secretary ~~of social and~~
35 ~~rehabilitation services~~ *for children and families*; obligations of entities that
36 contract with the ~~department of social and rehabilitation services~~ *Kansas*
37 *department for children and families* for family preservation, foster care
38 and adoption; the termination of parental rights; the procedures for
39 appeals; and the basic rules regarding court procedure.

40 (2) The court may remove the parent's ally or allies from a
41 proceeding if such ally becomes disruptive in the present proceeding or
42 has been found disruptive in a prior proceeding.

43 (d) *Preservation of confidentiality*. If information required to be kept

1 confidential by K.S.A. 2013 Supp. 38-2209, and amendments thereto, is to
2 be introduced into evidence and there are persons in attendance who are
3 not authorized to receive the information, the court may exclude those
4 persons during the presentation of the evidence or conduct an in camera
5 inspection of the evidence.

6 Sec. 41. K.S.A. 2013 Supp. 38-2252 is hereby amended to read as
7 follows: 38-2252. (a) Before placement pursuant to this code of a child
8 with a person other than the child's parent, the secretary, the court or the
9 court services officer, at the direction of the court, may convene a
10 conference of persons determined by the court, the secretary or the court
11 services officer to have a potential interest in determining a placement
12 which is ~~in the best interests of~~ *the least detrimental alternative* for the
13 child. Such persons shall be given any information relevant to the
14 determination of the placement of the child, including the needs of the
15 child and any other information that would be helpful in making a
16 placement ~~in the best interests of~~ *which is the least detrimental alternative*
17 for the child. After presentation of the information, such persons shall be
18 permitted to discuss and recommend to the secretary or the court services
19 officer the person or persons with whom it would be ~~in the child's best~~
20 ~~interest~~ *the least detrimental alternative for the child* to be placed. Unless
21 the secretary or the court services officer determines that there is good
22 cause to place the child with a person other than as recommended, the
23 child shall be placed in accordance with the recommendations.

24 (b) A person participating in a conference pursuant to this section
25 shall have immunity from any civil liability that might otherwise be
26 incurred or imposed as a result of the person's participation.

27 Sec. 42. K.S.A. 2013 Supp. 38-2255 is hereby amended to read as
28 follows: 38-2255. (a) *Considerations*. Prior to entering an order of
29 disposition, the court shall give consideration to:

- 30 (1) The child's physical, mental and emotional condition;
- 31 (2) the child's need for assistance;
- 32 (3) the manner in which the parent participated in the abuse, neglect
33 or abandonment of the child;
- 34 (4) any relevant information from the intake and assessment process;
35 and
- 36 (5) the evidence received at the dispositional hearing.

37 (b) *Custody with a parent*. The court may place the child in the
38 custody of either of the child's parents subject to terms and conditions
39 which the court prescribes to assure the proper care and protection of the
40 child, including, but not limited to:

- 41 (1) Supervision of the child and the parent by a court services officer;
- 42 (2) participation by the child and the parent in available programs
43 operated by an appropriate individual or agency; and

1 (3) any special treatment or care which the child needs for the child's
2 physical, mental or emotional health and safety.

3 (c) *Removal of a child from custody of a parent.* The court shall not
4 enter the initial order removing a child from the custody of a parent
5 pursuant to this section unless the court first finds probable cause that: (1)
6 (A) The child is likely to sustain harm if not immediately removed from
7 the home;

8 (B) allowing the child to remain in home is contrary to the welfare of
9 the child; or

10 (C) immediate placement of the child is ~~in the best interest of the~~
11 *least detrimental alternative* for the child; and

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

15 The court shall not enter an order removing a child from the custody of
16 a parent pursuant to this section based solely on the finding that the parent
17 is homeless.

18 (d) *Custody of a child removed from the custody of a parent.* If the
19 court has made the findings required by subsection (c), the court shall
20 enter an order awarding custody to: A relative of the child or to a person
21 with whom the child has close emotional ties who shall not be required to
22 be licensed under article 5 of chapter 65 of the Kansas Statutes Annotated,
23 and amendments thereto; any other suitable person; a shelter facility; a
24 youth residential facility; a staff secure facility, notwithstanding any other
25 provision of law, if the child has been subjected to human trafficking or
26 aggravated human trafficking, as defined by K.S.A. 2013 Supp. 21-5426,
27 and amendments thereto, or commercial sexual exploitation of a child, as
28 defined by K.S.A. 2013 Supp. 21-6422, and amendments thereto, or the
29 child committed an act which, if committed by an adult, would constitute a
30 violation of K.S.A. 2013 Supp. 21-6419, and amendments thereto; or, if
31 the child is 15 years of age or younger, or 16 or 17 years of age if the child
32 has no identifiable parental or family resources or shows signs of physical,
33 mental, emotional or sexual abuse, to the secretary. Custody awarded
34 under this subsection shall continue until further order of the court.

35 (1) When custody is awarded to the secretary, the secretary shall
36 consider any placement recommendation by the court and notify the court
37 of the placement or proposed placement of the child within 10 days of the
38 order awarding custody. After providing the parties or interested parties
39 notice and opportunity to be heard, the court may determine whether the
40 secretary's placement or proposed placement is contrary to the welfare *of*
41 ~~or in the best interests of~~ *is the least detrimental alternative* for the child.
42 In making that determination the court shall consider the health and safety
43 needs of the child and the resources available to meet the needs of children

1 in the custody of the secretary. If the court determines that the placement
2 or proposed placement is contrary to the welfare *of* or not ~~in the best~~
3 ~~interests of the least detrimental alternative~~ for the child, the court shall
4 notify the secretary, who shall then make an alternative placement.

5 (2) The custodian designated under this subsection shall notify the
6 court in writing at least 10 days prior to any planned placement with a
7 parent. The written notice shall state the basis for the custodian's belief that
8 placement with a parent is no longer contrary to the welfare *of* or ~~best~~
9 ~~interest of is the least detrimental alternative~~ for the child. Upon
10 reviewing the notice, the court may allow the custodian to proceed with
11 the planned placement or may set the date for a hearing to determine if the
12 child shall be allowed to return home. If the court sets a hearing on the
13 matter, the custodian shall not return the child home without written
14 consent of the court.

15 (3) The court may grant any person reasonable rights to visit the child
16 upon motion of the person and a finding that the visitation rights would be
17 ~~in the best interests of the least detrimental alternative~~ for the child.

18 (4) The court may enter an order restraining any alleged perpetrator
19 of physical, mental or emotional abuse or sexual abuse of the child from
20 residing in the child's home; visiting, contacting, harassing or intimidating
21 the child, other family member or witness; or attempting to visit, contact,
22 harass or intimidate the child, other family member or witness. Such
23 restraining order shall be served by personal service pursuant to subsection
24 (a) of K.S.A. 2013 Supp. 38-2237, and amendments thereto, on any
25 alleged perpetrator to whom the order is directed.

26 (5) The court shall provide a copy of any orders entered within 10
27 days of entering the order to the custodian designated under this
28 subsection.

29 (e) *Further determinations regarding a child removed from the home.*
30 If custody has been awarded under subsection (d) to a person other than a
31 parent, a permanency plan shall be provided or prepared pursuant to
32 K.S.A. 2013 Supp. 38-2264, and amendments thereto. If a permanency
33 plan is provided at the dispositional hearing, the court may determine
34 whether reintegration is a viable alternative or, if reintegration is not a
35 viable alternative, whether the child should be placed for adoption or a
36 permanent custodian appointed. In determining whether reintegration is a
37 viable alternative, the court shall consider:

38 (1) Whether a parent has been found by a court to have committed
39 one of the following crimes or to have violated the law of another state
40 prohibiting such crimes or to have aided and abetted, attempted, conspired
41 or solicited the commission of one of these crimes: (A) Murder in the first
42 degree, K.S.A. 21-3401, prior to its repeal, or K.S.A. 2013 Supp. 21-5402,
43 and amendments thereto; (B) murder in the second degree, K.S.A. 21-

1 3402, prior to its repeal, or K.S.A. 2013 Supp. 21-5403, and amendments
2 thereto; (C) capital murder, K.S.A. 21-3439, prior to its repeal, or K.S.A.
3 2013 Supp. 21-5401, and amendments thereto; (D) voluntary
4 manslaughter, K.S.A. 21-3403, prior to its repeal, or K.S.A. 2013 Supp.
5 21-5404, and amendments thereto; or (E) a felony battery that resulted in
6 bodily injury;

7 (2) whether a parent has subjected the child or another child to
8 aggravated circumstances;

9 (3) whether a parent has previously been found to be an unfit parent
10 in proceedings under this code or in comparable proceedings under the
11 laws of another state or the federal government;

12 (4) whether the child has been in extended out of home placement;

13 (5) whether the parents have failed to work diligently toward
14 reintegration;

15 (6) whether the secretary has provided the family with services
16 necessary for the safe return of the child to the home; and

17 (7) whether it is reasonable to expect reintegration to occur within a
18 time frame consistent with the child's developmental needs.

19 (f) *Proceedings if reintegration is not a viable alternative.* If the court
20 determines that reintegration is not a viable alternative, proceedings to
21 terminate parental rights and permit placement of the child for adoption or
22 appointment of a permanent custodian shall be initiated unless the court
23 finds that compelling reasons have been documented in the case plan why
24 adoption or appointment of a permanent custodian would not be ~~in the best~~
25 ~~interests of~~ *the least detrimental alternative* for the child. If compelling
26 reasons have not been documented, the county or district attorney shall file
27 a motion within 30 days to terminate parental rights or a motion to appoint
28 a permanent custodian within 30 days and the court shall hold a hearing on
29 the motion within 90 days of its filing. No hearing is required when the
30 parents voluntarily relinquish parental rights or consent to the appointment
31 of a permanent custodian.

32 (g) *Additional Orders.* In addition to or in lieu of any other order
33 authorized by this section:

34 (1) The court may order the child and the parents of any child who
35 has been adjudicated a child in need of care to attend counseling sessions
36 as the court directs. The expense of the counseling may be assessed as an
37 expense in the case. No mental health provider shall charge a greater fee
38 for court-ordered counseling than the provider would have charged to the
39 person receiving counseling if the person had requested counseling on the
40 person's own initiative.

41 (2) If the court has reason to believe that a child is before the court
42 due, in whole or in part, to the use or misuse of alcohol or a violation of
43 K.S.A. 2013 Supp. 21-5701 through 21-5717, and amendments thereto, by

1 the child, a parent of the child, or another person responsible for the care
2 of the child, the court may order the child, parent of the child or other
3 person responsible for the care of the child to submit to and complete an
4 alcohol and drug evaluation by a qualified person or agency and comply
5 with any recommendations. If the evaluation is performed by a
6 community-based alcohol and drug safety program certified pursuant to
7 K.S.A. 8-1008, and amendments thereto, the child, parent of the child or
8 other person responsible for the care of the child shall pay a fee not to
9 exceed the fee established by that statute. If the court finds that the child
10 and those legally liable for the child's support are indigent, the fee may be
11 waived. In no event shall the fee be assessed against the secretary.

12 (3) If child support has been requested and the parent or parents have
13 a duty to support the child, the court may order one or both parents to pay
14 child support and, when custody is awarded to the secretary, the court shall
15 order one or both parents to pay child support. The court shall determine,
16 for each parent separately, whether the parent is already subject to an order
17 to pay support for the child. If the parent is not presently ordered to pay
18 support for any child who is subject to the jurisdiction of the court and the
19 court has personal jurisdiction over the parent, the court shall order the
20 parent to pay child support in an amount determined under K.S.A. 2013
21 Supp. 38-2277, and amendments thereto. Except for good cause shown,
22 the court shall issue an immediate income withholding order pursuant to
23 K.S.A. 2013 Supp. 23-3101 et seq., and amendments thereto, for each
24 parent ordered to pay support under this subsection, regardless of whether
25 a payor has been identified for the parent. A parent ordered to pay child
26 support under this subsection shall be notified, at the hearing or otherwise,
27 that the child support order may be registered pursuant to K.S.A. 2013
28 Supp. 38-2279, and amendments thereto. The parent shall also be informed
29 that, after registration, the income withholding order may be served on the
30 parent's employer without further notice to the parent and the child support
31 order may be enforced by any method allowed by law. Failure to provide
32 this notice shall not affect the validity of the child support order.

33 Sec. 43. K.S.A. 2013 Supp. 38-2258 is hereby amended to read as
34 follows: 38-2258. (a) Except as provided in K.S.A. 2013 Supp. 38-2255(d)
35 (2) and 38-2259, and amendments thereto, if a child has been in the same
36 foster home or shelter facility for six months or longer, or has been placed
37 by the secretary in the home of a parent or relative, the secretary shall give
38 written notice of any plan to move the child to a different placement unless
39 the move is to the selected preadoptive family for the purpose of
40 facilitating adoption. The notice shall be given to: (1) The court having
41 jurisdiction over the child; (2) the petitioner; (3) the attorney for the
42 parents, if any; (4) each parent whose address is available; (5) the foster
43 parent or custodian from whose home or shelter facility it is proposed to

1 remove the child; (6) the child, if 12 or more years of age; (7) the child's
2 guardian ad litem; (8) any other party or interested party; and (9) the
3 child's court appointed special advocate.

4 (b) The notice shall state the placement to which the secretary plans
5 to transfer the child and the reason for the proposed action. The notice
6 shall be mailed by first class mail 30 days in advance of the planned
7 transfer, except that the secretary shall not be required to wait 30 days to
8 transfer the child if all persons enumerated in subsection (a)(2) through (8)
9 consent in writing to the transfer.

10 (c) Within 14 days after receipt of the notice, any person enumerated
11 in subsection (a)(2) through (8) receiving notice as provided above may
12 request, either orally or in writing, that the court conduct a hearing to
13 determine whether or not the change in placement is ~~in the best interests of~~
14 *the least detrimental alternative* for the child concerned. When the request
15 has been received, the court shall schedule a hearing and immediately
16 notify the secretary of the request and the time and date the matter will be
17 heard. The court shall give notice of the hearing to persons enumerated in
18 subsection (a)(2) through (9). If the court does not receive a request for
19 hearing within the specified time, the change in placement may occur prior
20 to the expiration of the 30 days. The secretary shall not change the
21 placement of the child, except for the purpose of adoption, unless the
22 change is approved by the court.

23 (d) When, after the notice set out above, a child in the custody of the
24 secretary is removed from the home of a parent after having been placed in
25 the home of a parent for a period of six months or longer, the secretary
26 shall request a finding that: (1) (A) The child is likely to sustain harm if
27 not immediately removed from the home;

28 (B) allowing the child to remain in home is contrary to the welfare of
29 the child; or

30 (C) immediate placement of the child is ~~in the best interest of~~ *the*
31 *least detrimental alternative* for the child; and

32 (2) reasonable efforts have been made to maintain the family unit and
33 prevent the unnecessary removal of the child from the child's home or that
34 an emergency exists which threatens the safety to the child.

35 (e) The secretary shall present to the court in writing the efforts to
36 maintain the family unit and prevent the unnecessary removal of the child
37 from the child's home. In making the findings, the court may rely on
38 documentation submitted by the secretary or may set the date for a hearing
39 on the matter. If the secretary requests such finding, the court, not more
40 than 45 days from the date of the request, shall provide the secretary with a
41 written copy of the findings by the court for the purpose of documenting
42 these orders.

43 Sec. 44. K.S.A. 2013 Supp. 38-2259 is hereby amended to read as

1 follows: 38-2259. (a) When an emergency exists requiring immediate
2 action to assure the safety and protection of the child or the secretary is
3 notified that the foster parents or shelter facility refuse to allow the child to
4 remain, the secretary may transfer the child to another foster home or
5 shelter facility without prior court approval. The secretary shall notify the
6 court of the action at the earliest practical time. When the child is removed
7 from the home of a parent after having been placed in the home for a
8 period of six months or longer, the secretary shall present to the court in
9 writing the specific nature of the emergency and reasons why it is contrary
10 to the welfare of the child to remain in the placement and request a finding
11 by the court whether remaining in the home is contrary to the welfare of
12 the child. If the court enters an order the court shall make a finding as to
13 whether an emergency exists. The court shall provide the secretary with a
14 copy of the order. In making the finding, the court may rely on
15 documentation submitted by the secretary or may set the date for a hearing
16 on the matter. If the secretary requests such a finding, the court shall
17 provide the secretary with a written copy of the finding by the court not
18 more than 45 days from the date of the request.

19 (b) The court shall not enter an order approving the removal of a
20 child from the home of a parent pursuant to this section unless the court
21 first finds probable cause that: (1) (A) The child is likely to sustain harm if
22 not immediately removed from the home;

23 (B) allowing the child to remain in home is contrary to the welfare of
24 the child; or

25 (C) immediate placement of the child is ~~in the best interest of the~~
26 *least detrimental alternative* for the child; and

27 (2) reasonable efforts have been made to maintain the family unit and
28 prevent the unnecessary removal of the child from the child's home or that
29 an emergency exists which threatens the safety to the child.

30 Sec. 45. K.S.A. 2013 Supp. 38-2264 is hereby amended to read as
31 follows: 38-2264. (a) A permanency hearing is a proceeding conducted by
32 the court or by a citizen review board for the purpose of determining
33 progress toward accomplishment of a permanency plan as established by
34 K.S.A. 2013 Supp. 38-2263, and amendments thereto.

35 (b) The court or a citizen review board shall hear and the court shall
36 determine whether and, if applicable, when the child will be:

37 (1) Reintegrated with the child's parents;

38 (2) placed for adoption;

39 (3) placed with a permanent custodian; or

40 (4) if the secretary has documented compelling reasons why it would
41 ~~not be in the child's best interests for a placement~~ *the least detrimental*
42 *alternative for the child to be placed* in one of the placements pursuant to
43 paragraphs (1), (2) or (3) placed in another planned permanent

1 arrangement.

2 (c) The court shall enter a finding as to whether reasonable efforts
3 have been made by appropriate public or private agencies to rehabilitate
4 the family and achieve the permanency goal in place at the time of the
5 hearing.

6 (d) A permanency hearing shall be held within 12 months of the date
7 the court authorized the child's removal from the home and not less
8 frequently than every 12 months thereafter.

9 (e) If the court determines at any time other than during a
10 permanency hearing that reintegration may not be a viable alternative for
11 the child, a permanency hearing shall be held no later than 30 days
12 following that determination.

13 (f) When the court finds that reintegration continues to be a viable
14 alternative, the court shall determine whether and, if applicable, when the
15 child will be returned to the parent. The court may rescind any of its prior
16 dispositional orders and enter any dispositional order authorized by this
17 code or may order that a new plan for the reintegration be prepared and
18 submitted to the court. If reintegration cannot be accomplished as
19 approved by the court, the court shall be informed and shall schedule a
20 hearing pursuant to this section. No such hearing is required when the
21 parents voluntarily relinquish parental rights or consent to appointment of
22 a permanent custodian.

23 (g) If the court finds reintegration is no longer a viable alternative, the
24 court shall consider whether: (1) The child is in a stable placement with a
25 relative; (2) services set out in the case plan necessary for the safe return
26 of the child have been made available to the parent with whom
27 reintegration is planned; or (3) compelling reasons are documented in the
28 case plan to support a finding that neither adoption nor appointment of a
29 permanent custodian ~~are in the child's best interest~~ *is the least detrimental*
30 *alternative for the child*. If reintegration is not a viable alternative and
31 either adoption or appointment of a permanent custodian might be ~~in the~~
32 ~~best interests of~~ *the least detrimental alternative for the child*, the county
33 or district attorney or the county or district attorney's designee shall file a
34 motion to terminate parental rights or a motion to appoint a permanent
35 custodian within 30 days and the court shall set a hearing on such motion
36 within 90 days of the filing of such motion.

37 (h) If the court enters an order terminating parental rights to a child,
38 or an agency has accepted a relinquishment pursuant to K.S.A. 59-2124,
39 and amendments thereto, the requirements for permanency hearings shall
40 continue until an adoption or appointment of a permanent custodian has
41 been accomplished. If the court determines that reasonable efforts or
42 progress have not been made toward finding an adoptive placement or
43 appointment of a permanent custodian or placement with a fit and willing

1 relative, the court may rescind its prior orders and make others regarding
2 custody and adoption that are appropriate under the circumstances.
3 Reports of a proposed adoptive placement need not contain the identity of
4 the proposed adoptive parents.

5 (i) If permanency with one parent has been achieved without the
6 termination of the other parent's rights, the court may, prior to dismissing
7 the case, enter child custody orders, including residency and parenting
8 time that the court determines to be ~~in the best interests of the least~~
9 *detrimental alternative for the child*. The court shall complete a parenting
10 plan pursuant to K.S.A. 2013 Supp. 23-3213, and amendments thereto.

11 (1) Before entering a custody order under this subsection, the court
12 shall inquire whether a custody order has been entered or is pending in a
13 civil custody case by a court of competent jurisdiction within the state of
14 Kansas.

15 (2) If a civil custody case has been filed or is pending, a certified
16 copy of the custody, residency and parenting time orders shall be filed in
17 the civil custody case. The court in the civil custody case may, after
18 consultation with the court in the child in need of care case, enter an order
19 declaring that the custody order in the child in need of care case shall
20 become the custody order in the civil custody case.

21 (3) A district court, on its own motion or upon the motion of any
22 party, may order the consolidation of the child in need of care case with
23 any open civil custody case involving the child and both of the child's
24 parents. Custody, residency and parenting time orders entered in
25 consolidated child in need of care and civil custody cases take precedence
26 over any previous orders affecting both parents and the child that were
27 entered in the civil custody case regarding the same or related issues.
28 Following entry of a custody order in a consolidated case, the court shall
29 dismiss the child in need of care case and, if necessary, return the civil
30 custody case to the original court having jurisdiction over it.

31 (4) If no civil custody case has been filed, the court may direct the
32 parties to file a civil custody case and to file the custody orders from the
33 child in need of care case in that case. Costs of the civil custody case may
34 be assessed to the parties.

35 (5) Nothing in this subsection shall operate to expand access to
36 information that is confidential under K.S.A. 38-2209, and amendments
37 thereto, and the confidentiality of such information shall be preserved in
38 all filings in a civil custody case.

39 (j) When permanency has been achieved to the satisfaction of the
40 court, the court shall enter an order closing the case.

41 Sec. 46. K.S.A. 2013 Supp. 38-2267 is hereby amended to read as
42 follows: 38-2267. (a) Upon receiving a petition or motion requesting
43 termination of parental rights or appointment of permanent custodian, the

1 court shall set the time and place for the hearing, which shall be held
2 within 90 days. A continuance shall be granted only if the court finds it is
3 ~~in the best interests of~~ *the least detrimental alternative* for the child. Upon
4 motion of a party, the chief judge shall reassign a petition or motion
5 requesting termination of parental rights from a district magistrate judge to
6 a district judge pursuant to subsection (e) of K.S.A. 20-302b, and
7 amendments thereto.

8 (b) (1) The court shall give notice of the hearing: (A) To the parties
9 and interested parties, as provided in K.S.A. 2013 Supp. 38-2236 and 38-
10 2237, and amendments thereto; (B) to all the child's grandparents at their
11 last known addresses or, if no grandparent is living or if no living
12 grandparent's address is known, to the closest relative of each of the child's
13 parents whose address is known; (C) in any case in which a parent of a
14 child cannot be located by the exercise of due diligence, to the parents
15 nearest relative who can be located, if any; and (D) to the foster parents,
16 preadoptive parents or relatives providing care.

17 (2) This notice shall be given by return receipt delivery not less than
18 10 business days before the hearing. Individuals receiving notice pursuant
19 to this subsection shall not be made a party or interested party to the action
20 solely on the basis of this notice.

21 (3) The provisions of this subsection shall not require additional
22 service to any party or interested party who could not be located by the
23 exercise of due diligence in the initial notice of the filing of a petition for a
24 child in need of care.

25 (c) At the beginning of the hearing the court shall determine that due
26 diligence has been used in determining the identity and location of the
27 persons listed in subsection (b) and in accomplishing service of process.

28 (d) Prior to a hearing on a petition, a motion requesting termination of
29 parental rights or a motion for appointment of a permanent custodian, the
30 court shall appoint an attorney to represent any parent who fails to appear
31 and may award a reasonable fee to the attorney for services. The fee may
32 be assessed as an expense in the proceedings.

33 Sec. 47. K.S.A. 2013 Supp. 38-2269 is hereby amended to read as
34 follows: 38-2269. (a) When the child has been adjudicated to be a child in
35 need of care, the court may terminate parental rights or appoint a
36 permanent custodian when the court finds by clear and convincing
37 evidence that the parent is unfit by reason of conduct or condition which
38 renders the parent unable to care properly for a child and the conduct or
39 condition is unlikely to change in the foreseeable future.

40 (b) In making a determination of unfitness the court shall consider,
41 but is not limited to, the following, if applicable:

42 (1) Emotional illness, mental illness, mental deficiency or physical
43 disability of the parent, of such duration or nature as to render the parent

1 unable to care for the ongoing physical, mental and emotional needs of the
2 child;

3 (2) conduct toward a child of a physically, emotionally or sexually
4 cruel or abusive nature;

5 (3) the use of intoxicating liquors or narcotic or dangerous drugs of
6 such duration or nature as to render the parent unable to care for the
7 ongoing physical, mental or emotional needs of the child;

8 (4) physical, mental or emotional abuse or neglect or sexual abuse of
9 a child;

10 (5) conviction of a felony and imprisonment;

11 (6) unexplained injury or death of another child or stepchild of the
12 parent or any child in the care of the parent at the time of injury or death;

13 (7) failure of reasonable efforts made by appropriate public or private
14 agencies to rehabilitate the family;

15 (8) lack of effort on the part of the parent to adjust the parent's
16 circumstances, conduct or conditions to meet the needs of the child; and

17 (9) whether the child has been in extended out of home placement as
18 a result of actions or inactions attributable to the parent and one or more of
19 the factors listed in subsection (c) apply.

20 (c) In addition to the foregoing, when a child is not in the physical
21 custody of a parent, the court, shall consider, but is not limited to, the
22 following:

23 (1) Failure to assure care of the child in the parental home when able
24 to do so;

25 (2) failure to maintain regular visitation, contact or communication
26 with the child or with the custodian of the child;

27 (3) failure to carry out a reasonable plan approved by the court
28 directed toward the integration of the child into a parental home; and

29 (4) failure to pay a reasonable portion of the cost of substitute
30 physical care and maintenance based on ability to pay.

31 In making the above determination, the court may disregard incidental
32 visitations, contacts, communications or contributions.

33 (d) A finding of unfitness may be made as provided in this section if
34 the court finds that the parents have abandoned the child, the custody of
35 the child was surrendered pursuant to K.S.A. 2013 Supp. 38-2282, and
36 amendments thereto, or the child was left under such circumstances that
37 the identity of the parents is unknown and cannot be ascertained, despite
38 diligent searching, and the parents have not come forward to claim the
39 child within three months after the child is found.

40 (e) If a person is convicted of a felony in which sexual intercourse
41 occurred, or if a juvenile is adjudicated a juvenile offender because of an
42 act which, if committed by an adult, would be a felony in which sexual
43 intercourse occurred, and as a result of the sexual intercourse, a child is

1 conceived, a finding of unfitness may be made.

2 (f) The existence of any one of the above factors standing alone may,
3 but does not necessarily, establish grounds for termination of parental
4 rights.

5 (g) (1) If the court makes a finding of unfitness, the court shall
6 consider whether termination of parental rights as requested in the petition
7 or motion is ~~in the best interests of~~ *the least detrimental alternative* for the
8 child. In making the determination, the court shall give primary
9 consideration to the physical, mental and emotional health of the child. If
10 the physical, mental or emotional needs of the child would best be served
11 by termination of parental rights, the court shall so order. A termination of
12 parental rights under the code shall not terminate the right of a child to
13 inherit from or through a parent. Upon such termination all rights of the
14 parent to such child, including, such parent's right to inherit from or
15 through such child, shall cease.

16 (2) If the court terminates parental rights, the court may authorize
17 adoption pursuant to K.S.A. 2013 Supp. 38-2270, and amendments
18 thereto, appointment of a permanent custodian pursuant to K.S.A. 2013
19 Supp. 38-2272, and amendments thereto, or continued permanency
20 planning.

21 (3) If the court does not terminate parental rights, the court may
22 authorize appointment of a permanent custodian pursuant to K.S.A. 2013
23 Supp. 38-2272, and amendments thereto, or continued permanency
24 planning.

25 (h) If a parent is convicted of an offense as provided in subsection (a)
26 (7) of K.S.A. 2013 Supp. 38-2271, and amendments thereto, or is
27 adjudicated a juvenile offender because of an act which if committed by an
28 adult would be an offense as provided in subsection (a)(7) of K.S.A. 2013
29 Supp. 38-2271, and amendments thereto, and if the victim was the other
30 parent of a child, the court may disregard such convicted or adjudicated
31 parent's opinions or wishes in regard to the placement of such child.

32 (i) A record shall be made of the proceedings.

33 (j) When adoption, proceedings to appoint a permanent custodian or
34 continued permanency planning has been authorized, the person or agency
35 awarded custody of the child shall within 30 days submit a written plan for
36 permanent placement which shall include measurable objectives and time
37 schedules.

38 Sec. 48. K.S.A. 2013 Supp. 38-2270 is hereby amended to read as
39 follows: 38-2270. (a) When parental rights have been terminated and it
40 appears that adoption is a viable alternative, the court shall enter one of the
41 following orders:

42 (1) An order granting custody of the child, for adoption proceedings,
43 to the secretary or a corporation organized under the laws of the state of

1 Kansas authorized to care for and surrender children for adoption as
2 provided in K.S.A. 38-112 et seq., and amendments thereto. The person,
3 secretary or corporation shall have authority to place the child in a family
4 home, and give consent for the legal adoption of the child which shall be
5 the only consent required to authorize the entry of an order or decree of
6 adoption.

7 (2) An order granting custody of the child to proposed adoptive
8 parents and consenting to the adoption of the child by the proposed
9 adoptive parents.

10 (b) In making an order under subsection (a), the court shall give
11 preference, to the extent that the court finds it is ~~in the best interests of the~~
12 *least detrimental alternative for* the child, first to granting such custody for
13 adoption to a relative of the child and second to granting such custody to a
14 person with whom the child has close emotional ties.

15 (c) *Discharge upon adoption.* When an adoption decree has been filed
16 with the court in the child in need of care case, the secretary's custody shall
17 cease, the court's jurisdiction over the child shall cease and the court shall
18 enter an order to that effect.

19 Sec. 49. K.S.A. 2013 Supp. 38-2272 is hereby amended to read as
20 follows: 38-2272. (a) A permanent custodian may be appointed:

21 (1) With the consent and agreement of the parents and approval by
22 the court;

23 (2) after a finding of unfitness pursuant to K.S.A. 2013 Supp. 38-
24 2269, and amendments thereto; or

25 (3) after termination of parental rights pursuant to K.S.A. 2013 Supp.
26 38-2270, and amendments thereto.

27 (b) Upon the appointment of a permanent custodian, the secretary's
28 custody of the child shall cease. The court's jurisdiction over the child shall
29 continue unless the court enters an order terminating jurisdiction.

30 (c) Subject to subsection (d), a permanent custodian shall stand in
31 loco parentis and shall exercise all of the rights and responsibilities of a
32 parent except the permanent custodian shall not:

33 (1) Consent to an adoption of the child; and

34 (2) be subject to court ordered child support or medical support.

35 (d) When the court retains jurisdiction after appointment of a
36 permanent custodian, the court, in its order, may impose limitations or
37 conditions upon the rights and responsibilities of the permanent custodian
38 including, but not limited to, the right to:

39 (1) Determine contact with the biological parent;

40 (2) consent to marriage;

41 (3) consent to psychosurgery, removal of a bodily organ or
42 amputation of a limb;

43 (4) consent to sterilization;

- 1 (5) consent to behavioral and medical experiments;
- 2 (6) consent to withholding life-prolonging medical treatment;
- 3 (7) consent to placement in a treatment facility; or
- 4 (8) consent to placement in a psychiatric hospital or an institution for
- 5 the developmentally disabled.

6 (e) Absent a judicial finding of unfitness or court-ordered limitations
7 pursuant to subsection (d), a permanent custodian may share parental
8 responsibilities with a parent of the child as the permanent custodian
9 determines is ~~in the child's best interests~~ *the least detrimental alternative*
10 *for the child*. Sharing parental responsibilities does not relieve the
11 permanent custodian of legal responsibility for the child.

12 (f) Parental consent to appointment of a permanent custodian shall be
13 in writing and shall be acknowledged before a judge of a court of record or
14 before an officer authorized by law to take acknowledgments. If the
15 consent is acknowledged before a judge of a court of record, it shall be the
16 duty of the court before which the consent is acknowledged to advise the
17 consenting parent of the consequences of the consent, including the
18 following:

19 (1) Do you understand that your parental rights are not being
20 terminated and you can be ordered to pay child support and medical
21 support for your child?

22 (2) Do you understand that to get the rights you still have with your
23 child, you must keep the court up to date about how to contact you? This
24 means that the court needs to always have your current address and
25 telephone number.

26 (3) Do you understand that if your child is ever placed for adoption,
27 the court will try to let you know by using the information you have given
28 them? If your address and telephone number are not up to date, you might
29 not know your child is placed for adoption.

30 (4) Do you understand that if you want information about your child's
31 health or education, you will have to keep the information you give the
32 court about where you are up to date because the information will be sent
33 to the latest address the court has?

34 (5) Do you understand that you may be able to have some contact
35 with your child, but only if the permanent custodian decides it is ~~in the~~
36 ~~child's best interests~~ *the least detrimental alternative for the child* and if
37 the court allows the contact?

38 (6) Do you understand that unless the court orders differently, the
39 permanent custodian has the right to make the following decisions about
40 your child: The amount and type of contact you have with the child;
41 consent to your child's marriage; consent to medical treatment; consent to
42 mental health treatment; consent to placement in a psychiatric hospital or
43 an institution for the developmentally disabled; consent to behavioral and

1 medical experiments; consent to sterilization and consent to withholding
2 life-prolonging medical treatment?

3 (g) (1) A consent is final when executed, unless the parent whose
4 consent is at issue, prior to issuance of the order appointing a permanent
5 custodian, proves by clear and convincing evidence that the consent was
6 not freely and voluntarily given. The burden of proving the consent was
7 not freely and voluntarily given shall rest with that parent.

8 (2) If a parent has consented to appointment of a permanent custodian
9 based upon a belief that the child's other parent would so consent or would
10 be found unfit, and this does not occur, the consent shall be null and void.

11 (h) If a permanent custodian is appointed after a judicial finding of
12 parental unfitness without a termination of parental rights, the parent shall
13 retain only the following rights and responsibilities:

14 (1) The obligation to pay child support and medical support; and

15 (2) the right to inherit from the child.

16 (3) The right to consent to adoption of the child. All other parental
17 rights transfer to the permanent custodian.

18 (i) If a permanent custodian is appointed after termination of parental
19 rights, the parent retains no right or responsibilities to the child.

20 (j) Prior to appointing a permanent custodian, the court shall receive
21 and consider an assessment of any potential permanent custodian as
22 provided in K.S.A. 59-2132, and amendments thereto. In making an order
23 appointing a permanent custodian the court shall give preference, to the
24 extent that the court finds it ~~in the child's best interests~~ *is the least*
25 *detrimental alternative for the child*, to first appointing a permanent
26 custodian who is a relative of the child or second a person with whom the
27 child has close emotional ties.

28 (k) If permanent custodians are divorced, such custodian's marriage is
29 annulled or the court orders separate maintenance, the court in that case
30 has jurisdiction to make custody determinations between the permanent
31 custodians.

32 Sec. 50. K.S.A. 2013 Supp. 38-2277 is hereby amended to read as
33 follows: 38-2277. (a) In determining the amount of a child support order
34 under the code, the court shall apply the Kansas child support guidelines
35 adopted pursuant to K.S.A. 20-165, and amendments thereto.

36 (b) If the appropriate amount of support under the Kansas child
37 support guidelines cannot be determined because any necessary fact is not
38 proven by evidence or by stipulation of the appropriate parent, the court
39 shall apply one or more of the following presumptions:

40 (1) Both parents have only gross earned income equal to 40 hours per
41 week at the federal minimum wage then in effect;

42 (2) neither parent's income is subject to adjustment for any reason;

43 (3) the number of children is as alleged in the petition;

1 (4) the age of each child is as alleged in the petition or, if unknown, is
2 between seven and 15 years;

3 (5) no adjustment for child care, health or dental insurance or income
4 tax exemption is appropriate; or

5 (6) neither parent is entitled to any other credit or adjustment.

6 (c) If the county or district attorney determines that: (1) A parent will
7 contest the amount of support resulting from application of the guidelines;
8 (2) the parent is or may be entitled to an adjustment pursuant to the
9 guidelines; and (3) it is ~~in the child's best interests to resolve the least~~
10 *detrimental alternative for the child for the support issue to be resolved*
11 promptly and with minimal hostility, the county or district attorney may
12 enter into a stipulation with the parent as to the amount of child support for
13 that parent. The amount of support may be based upon one or more of the
14 presumptions in subsection (b). Except for good cause or as otherwise
15 provided in K.S.A. 2013 Supp. 38-2279, and amendments thereto, a
16 stipulation under this subsection shall be binding upon the court and all
17 parties or interested parties. The criteria for application of this subsection
18 shall be incorporated into the journal entry or judgment form.

19 Sec. 51. K.S.A. 2013 Supp. 38-2286 is hereby amended to read as
20 follows: 38-2286. (a) Notwithstanding the provisions of other statutes,
21 when a child is removed from the custody of a parent and not placed with
22 the child's other parent, a grandparent who requests custody shall receive
23 substantial consideration when evaluating what custody, visitation or
24 residency arrangements are ~~in the best interests of the least detrimental~~
25 *alternatives for the child*. Such evaluation of custody, visitation or
26 residency arrangements shall be stated on the record.

27 (b) In deciding whether to give custody to a grandparent, the court
28 should be guided by the ~~best interests of least detrimental alternative for~~
29 the child and should consider all relevant factors including, but not limited to,
30 the following:

31 (1) The wishes of the parents, child and grandparent;

32 (2) the extent to which the grandparent has cared for, nurtured and
33 supported the child;

34 (3) the intent and circumstances under which the child is placed with
35 the grandparent, including whether domestic violence is a factor and
36 whether the child is placed to allow the parent to seek work or attend
37 school; and

38 (4) the physical and mental health of all individuals involved.

39 (c) If the court does not give custody of a child to a grandparent
40 pursuant to subsection (b) and the child is placed in the custody of the
41 secretary of social and rehabilitation services, a grandparent who requests
42 placement of the child in such grandparent's home shall receive substantial
43 consideration in the evaluation of the secretary's placement of the child.

1 The secretary shall consider all relevant factors, including, but not limited
2 to, all factors listed in subsection (b) in deciding whether to place the child
3 in the home of such grandparent. If the secretary decides that the child is
4 not to be placed in the home of such grandparent, the secretary shall
5 prepare and maintain a written report providing the specific reasons for
6 such finding.

7 (d) The provisions of this section shall not apply to actions filed
8 under the Kansas adoption and relinquishment act, K.S.A. 59-2111 et seq.,
9 and amendments thereto.

10 (e) This section shall be part of and supplemental to the revised
11 Kansas code for care of children.

12 Sec. 52. K.S.A. 2013 Supp. 38-2302 is hereby amended to read as
13 follows: 38-2302. As used in this code, unless the context otherwise
14 requires:

15 (a) "Commissioner" means the commissioner of juvenile justice or
16 the commissioner's designee.

17 (b) "Conditional release" means release from a term of commitment
18 in a juvenile correctional facility for an aftercare term pursuant to K.S.A.
19 2013 Supp. 38-2369, and amendments thereto, under conditions
20 established by the commissioner.

21 (c) "Court-appointed special advocate" means a responsible adult,
22 other than an attorney appointed pursuant to K.S.A. 2013 Supp. 38-2306,
23 and amendments thereto, who is appointed by the court to represent the
24 ~~best interests of a~~ *least detrimental alternative for the* child, as provided
25 in K.S.A. 2013 Supp. 38-2307, and amendments thereto, in a proceeding
26 pursuant to this code.

27 (d) "Educational institution" means all schools at the elementary and
28 secondary levels.

29 (e) "Educator" means any administrator, teacher or other professional
30 or paraprofessional employee of an educational institution who has
31 exposure to a pupil specified in subsections (a)(1) through (5) of K.S.A.
32 72-89b03, and amendments thereto.

33 (f) "Institution" means the following institutions: The Atchison
34 juvenile correctional facility, the Larned juvenile correctional facility and
35 the Kansas juvenile correctional complex.

36 (g) "Investigator" means an employee of the juvenile justice authority
37 assigned by the commissioner with the responsibility for investigations
38 concerning employees at the juvenile correctional facilities and juveniles
39 in the custody of the commissioner at a juvenile correctional facility.

40 (h) "Jail" means: (1) An adult jail or lockup; or

41 (2) a facility in the same building as an adult jail or lockup, unless the
42 facility meets all applicable licensure requirements under law and there is:

43 (A) Total separation of the juvenile and adult facility spatial areas such that

1 there could be no haphazard or accidental contact between juvenile and
2 adult residents in the respective facilities; (B) total separation in all
3 juvenile and adult program activities within the facilities, including
4 recreation, education, counseling, health care, dining, sleeping and general
5 living activities; and (C) separate juvenile and adult staff, including
6 management, security staff and direct care staff such as recreational,
7 educational and counseling.

8 (i) "Juvenile" means a person to whom one or more of the following
9 applies, the person: (1) Is 10 or more years of age but less than 18 years of
10 age; (2) is alleged to be a juvenile offender; or (3) has been adjudicated as
11 a juvenile offender and continues to be subject to the jurisdiction of the
12 court.

13 (j) "Juvenile correctional facility" means a facility operated by the
14 commissioner for the commitment of juvenile offenders.

15 (k) "Juvenile corrections officer" means a certified employee of the
16 juvenile justice authority working at a juvenile correctional facility
17 assigned by the commissioner with responsibility for maintaining custody,
18 security and control of juveniles in the custody of the commissioner at a
19 juvenile correctional facility.

20 (l) "Juvenile detention facility" means a public or private facility
21 licensed pursuant to article 5 of chapter 65 of the Kansas Statutes
22 Annotated, and amendments thereto, which is used for the lawful custody
23 of alleged or adjudicated juvenile offenders.

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

28 (n) "Juvenile offender" means a person who commits an offense
29 while 10 or more years of age but less than 18 years of age which if
30 committed by an adult would constitute the commission of a felony or
31 misdemeanor as defined by K.S.A. 2013 Supp. 21-5102, and amendments
32 thereto, or who violates the provisions of K.S.A. 41-727, subsection (j) of
33 K.S.A. 74-8810 or subsection (a)(14) of K.S.A. 2013 Supp. 21-6301, and
34 amendments thereto, but does not include: (1) A person 14 or more years
35 of age who commits a traffic offense, as defined in subsection (d) of
36 K.S.A. 8-2117, and amendments thereto;

37 (2) a person 16 years of age or over who commits an offense defined
38 in chapter 32 of the Kansas Statutes Annotated, and amendments thereto;

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

40 (A) Convicted as an adult under the Kansas criminal code;

41 (B) sentenced as an adult under the Kansas criminal code following
42 termination of status as an extended jurisdiction juvenile pursuant to
43 K.S.A. 2013 Supp. 38-2364, and amendments thereto; or

1 (C) convicted or sentenced as an adult in another state or foreign
2 jurisdiction under substantially similar procedures described in K.S.A.
3 2013 Supp. 38-2347, and amendments thereto, or because of attaining the
4 age of majority designated in that state or jurisdiction.

5 (o) "Law enforcement officer" means any person who by virtue of
6 that person's office or public employment is vested by law with a duty to
7 maintain public order or to make arrests for crimes, whether that duty
8 extends to all crimes or is limited to specific crimes.

9 (p) "Parent" when used in relation to a juvenile, includes a guardian
10 and every person who is, by law, liable to maintain, care for or support the
11 juvenile.

12 (q) "Risk assessment tool" means an instrument administered to
13 juveniles which delivers a score, or group of scores, describing, but not
14 limited to describing, the juvenile's potential risk to the community.

15 (r) "Sanctions house" means a facility which is operated or structured
16 so as to ensure that all entrances and exits from the facility are under the
17 exclusive control of the staff of the facility, whether or not the person
18 being detained has freedom of movement within the perimeters of the
19 facility, or which relies on locked rooms and buildings, fences or physical
20 restraint in order to control the behavior of its residents. Upon an order
21 from the court, a licensed juvenile detention facility may serve as a
22 sanctions house.

23 (s) "Warrant" means a written order by a judge of the court directed to
24 any law enforcement officer commanding the officer to take into custody
25 the juvenile named or described therein.

26 (t) "Youth residential facility" means any home, foster home or
27 structure which provides 24-hour-a-day care for juveniles and which is
28 licensed pursuant to article 5 of chapter 65 or article 70 of chapter 75 of
29 the Kansas Statutes Annotated, and amendments thereto.

30 Sec. 53. K.S.A. 2013 Supp. 39-7,145 is hereby amended to read as
31 follows: 39-7,145. (a) This section shall not apply if an action to establish
32 the father's duty of support on behalf of the child is pending before any
33 tribunal. As used in this section, "mother" means the natural mother of the
34 child whose parentage is in issue.

35 (b) Except as otherwise provided in subsection (d), genetic tests may
36 be ordered by the secretary if the alleged father consents and the necessary
37 persons are available for testing. Except as otherwise provided in
38 subsection (e), the secretary shall pay the costs of genetic tests, subject to
39 recoupment from the father if paternity is established. For purposes of this
40 section, a person receiving title IV-D services is not available for testing if
41 a claim for good cause not to cooperate under title IV-D is pending or has
42 been determined in the person's favor or if the person ceases to receive title
43 IV-D services for any reason.

1 (c) A copy of the order for genetic tests shall be served upon persons
2 required to comply with the order only by personal service or registered
3 mail, return receipt requested. The order shall specify the time and place
4 the person is required to appear for testing, which shall be at least ten days
5 after the date the order is entered.

6 (d) If a presumption of paternity arises pursuant to subsection (a) of
7 K.S.A. 2013 Supp. 23-2208, and amendments thereto, because the mother
8 married or attempted to marry any man, the secretary shall not order
9 genetic testing unless a court of this state or an appropriate tribunal in
10 another state has found that determining the child's biological father is ~~in~~
11 ~~the child's best interests~~ *the least detrimental alternative for the child*. If a
12 tribunal subsequently determines that the prohibition of this subsection
13 applied at the time genetic tests were ordered by the secretary, any support
14 order based in whole or in part upon the genetic tests may be set aside only
15 as provided in K.S.A. 60-260, and amendments thereto.

16 (e) Upon receiving the results of genetic testing, the secretary shall
17 promptly send a copy of the results to the parties, together with notice of
18 the time limits for requesting any additional genetic tests or for
19 challenging the results pursuant to K.S.A. 2013 Supp. 23-2212, and
20 amendments thereto, how to make such request or challenge, and any
21 associated costs. The notice shall state the consequences pursuant to
22 K.S.A. 2013 Supp. 23-2212, and amendments thereto, of failing to act
23 within the time allowed by the statute. Any additional genetic tests shall be
24 at the expense of the person making the request for additional genetic tests.
25 Failure of the person requesting additional tests to make advance payment
26 as required by the secretary shall be deemed withdrawal of the request.

27 (f) Any person required to comply with an order issued pursuant to
28 this section may request: (1) An administrative hearing pursuant to K.S.A.
29 75-3306, and amendments thereto, by complying with procedures
30 established by the secretary within ten days after entry of the order; or (2)
31 a de novo court review pursuant to K.S.A. 39-7,139, and amendments
32 thereto. If the order is served on the person by mail, the time for requesting
33 review shall be extended by three days. An order issued pursuant to this
34 section shall be subject to defenses that would apply if the order had been
35 issued by a court of this state. If the request for review is made within the
36 time allowed, the effect of the order shall be stayed with respect to the
37 person requesting review pending resolution of the review.

38 (g) An order issued pursuant to this section whose effect has not been
39 stayed may be enforced pursuant to the civil enforcement provisions of the
40 Kansas judicial review act, K.S.A. 77-601 et seq., and amendments
41 thereto, after the time for compliance with the order has expired.

42 Sec. 54. K.S.A. 39-7,149 is hereby amended to read as follows: 39-
43 7,149. (a) The responsible parent may request: (1) An administrative

1 hearing pursuant to K.S.A. 75-3306, and amendments thereto, for review
2 of a notice of intent to initiate income withholding served pursuant to
3 K.S.A. 39-7,147, and amendments thereto, by complying with procedures
4 established by the secretary within seven days after service of the notice of
5 intent; or (2) a de novo court review pursuant to K.S.A. 39-7,139, and
6 amendments thereto. If the notice is served by mail, the time for requesting
7 review shall be extended by three days. The request for review shall
8 specify the mistake of fact alleged to be the basis for the stay or any
9 applicable defense under this section. If the amount of the current support
10 order or the amount of arrearages is challenged, the request shall specify
11 the amount that is uncontested.

12 (b) The issues on review shall be limited to whether a mistake of fact
13 existed at the time the notice to the responsible parent was prepared or, if
14 specified in the request for review, whether a defense exists under this
15 section. As used in this section, "mistake of fact" means an incorrect
16 statement of the amount of current support due, the amount of arrearages,
17 the amount of income to be withheld or the identity of the responsible
18 parent.

19 (c) Except as otherwise provided in this subsection, the presiding
20 officer shall immediately authorize issuance of an income withholding
21 order upon request of the secretary if the identity of the responsible parent
22 is not contested and the uncontested facts in the case show that the
23 requirements of subsection (d) of K.S.A. 39-7,147, and amendments
24 thereto, have been met. If a defense under subsection (g) has been alleged,
25 the presiding officer shall authorize immediate issuance of an income
26 withholding order only if the uncontested arrearages equal or exceed the
27 amount of support due for one month. A copy of the request shall be
28 served on the responsible parent. The income withholding order authorized
29 by this subsection shall specify an amount sufficient to satisfy the order for
30 current support and to defray any arrearages, but only to the extent that
31 each amount is not contested. Any income withholding order issued
32 pursuant to this subsection shall be effective until modified or terminated.

33 (d) Entry of the income withholding order may be stayed only to the
34 extent permitted by the income withholding act, and amendments thereto,
35 or this section. A request for review under this section shall stay issuance
36 of the administrative income withholding order until further order of the
37 presiding officer.

38 (e) Within 45 days of the date the notice of intent to initiate income
39 withholding was served on the responsible parent, the presiding officer
40 shall provide the responsible parent an opportunity to present the
41 responsible parent's case, determine if an income withholding order may
42 be issued and notify the responsible parent and the secretary whether or
43 not withholding is to occur.

1 (f) In addition to any other circumstances warranting issuance of an
2 income withholding order under this section and notwithstanding any
3 claim made pursuant to subsection (g), if the presiding officer finds that a
4 notice of intent to initiate income withholding was served on the
5 responsible parent and that there were arrearages, as of the date the notice
6 was prepared, in an amount equal to or greater than the amount of support
7 payable for one month, the presiding officer shall authorize issuance of an
8 income withholding order. Subsequent payments to defray arrearages
9 shall not prevent issuance of an income withholding order under this
10 subsection unless there is no current support due and all arrearages are
11 satisfied.

12 (g) If an income withholding order was not entered at the time the
13 support order was entered because the tribunal found that there was good
14 cause not to order immediate income withholding or that the parties had
15 entered into an agreement for an alternative arrangement, the responsible
16 parent may request that income withholding be stayed pursuant to this
17 subsection.

18 If the responsible parent shows that the tribunal issuing the support
19 order found good cause not to require immediate income withholding and
20 that the basis for the finding of good cause still exists, the presiding officer
21 shall stay issuance of the income withholding order unless subsection (f)
22 applies.

23 If the responsible parent shows that the tribunal issuing the support
24 order did not require immediate income withholding based upon an
25 agreement of the interested parties for an alternative arrangement, the
26 presiding officer may stay issuance of the income withholding order unless
27 the presiding officer finds that: (1) Subsection (f) applies; (2) the
28 agreement was not in writing; (3) the agreement was not approved by all
29 interested parties, including any IV-D agency involved in the case at the
30 time of the agreement; (4) the terms of the agreement or alternative
31 arrangement are not being met; (5) the agreement or alternative
32 arrangement is not ~~in the best interests of~~ *the least detrimental alternative*
33 *for the child*; or (6) the agreement or alternative arrangement places an
34 unnecessary burden upon the custodial parent, the responsible parent, or a
35 public office.

36 (h) If the proposed administrative income withholding order specifies
37 a periodic amount to defray arrearages, the presiding officer may order a
38 reduction in the periodic amount to defray arrearages only if the total
39 arrearages owed are less than the periodic amount to defray arrearages.

40 Sec. 55. K.S.A. 2013 Supp. 59-2136 is hereby amended to read as
41 follows: 59-2136. (a) The provisions of this section shall apply where a
42 relinquishment or consent to an adoption has not been obtained from a
43 parent and K.S.A. 59-2124 and 59-2129, and amendments thereto, state

1 that the necessity of a parent's relinquishment or consent can be
2 determined under this section.

3 (b) Insofar as practicable, the provisions of this section applicable to
4 the father also shall apply to the mother and those applicable to the mother
5 also shall apply to the father.

6 (c) In stepparent adoptions under subsection (d), the court may
7 appoint an attorney to represent any father who is unknown or whose
8 whereabouts are unknown. In all other cases, the court shall appoint an
9 attorney to represent any father who is unknown or whose whereabouts are
10 unknown. If no person is identified as the father or a possible father, the
11 court shall order publication notice of the hearing in such manner as the
12 court deems appropriate.

13 (d) In a stepparent adoption, if a mother consents to the adoption of a
14 child who has a presumed father under subsection (a)(1), (2) or (3) of
15 K.S.A. 2013 Supp. 23-2208, and amendments thereto, or who has a father
16 as to whom the child is a legitimate child under prior law of this state or
17 under the law of another jurisdiction, the consent of such father must be
18 given to the adoption unless such father has failed or refused to assume the
19 duties of a parent for two consecutive years next preceding the filing of the
20 petition for adoption or is incapable of giving such consent. In determining
21 whether a father's consent is required under this subsection, the court may
22 disregard incidental visitations, contacts, communications or contributions.
23 In determining whether the father has failed or refused to assume the
24 duties of a parent for two consecutive years next preceding the filing of the
25 petition for adoption, there shall be a rebuttable presumption that if the
26 father, after having knowledge of the child's birth, has knowingly failed to
27 provide a substantial portion of the child support as required by judicial
28 decree, when financially able to do so, for a period of two years next
29 preceding the filing of the petition for adoption, then such father has failed
30 or refused to assume the duties of a parent. The court may consider the
31 ~~best interests of~~ *least detrimental alternative* for the child and the fitness
32 of the nonconsenting parent in determining whether a stepparent adoption
33 should be granted.

34 (e) Except as provided in subsection (d), if a mother desires to
35 relinquish or consents to the adoption of such mother's child, a petition
36 shall be filed in the district court to terminate the parental rights of the
37 father, unless the father's relationship to the child has been previously
38 terminated or determined not to exist by a court. The petition may be filed
39 by the mother, the petitioner for adoption, the person or agency having
40 custody of the child or the agency to which the child has been or is to be
41 relinquished. Where appropriate, the request to terminate parental rights
42 may be contained in a petition for adoption. If the request to terminate
43 parental rights is not filed in connection with an adoption proceeding,

1 venue shall be in the county in which the child, the mother or the
2 presumed or alleged father resides or is found. In an effort to identify the
3 father, the court shall determine by deposition, affidavit or hearing, the
4 following:

5 (1) Whether there is a presumed father under K.S.A. 2013 Supp. 23-
6 2208, and amendments thereto;

7 (2) whether there is a father whose relationship to the child has been
8 determined by a court;

9 (3) whether there is a father as to whom the child is a legitimate child
10 under prior law of this state or under the law of another jurisdiction;

11 (4) whether the mother was cohabitating with a man at the time of
12 conception or birth of the child;

13 (5) whether the mother has received support payments or promises of
14 support with respect to the child or in connection with such mother's
15 pregnancy; and

16 (6) whether any man has formally or informally acknowledged or
17 declared such man's possible paternity of the child.

18 If the father is identified to the satisfaction of the court, or if more than
19 one man is identified as a possible father, each shall be given notice of the
20 proceeding in accordance with subsection (f).

21 (f) Notice of the proceeding shall be given to every person identified
22 as the father or a possible father by personal service, certified mail return
23 receipt requested or in any other manner the court may direct. Proof of
24 notice shall be filed with the court before the petition or request is heard.

25 (g) If, after the inquiry, the court is unable to identify the father or any
26 possible father and no person has appeared claiming to be the father and
27 claiming custodial rights, the court shall enter an order terminating the
28 unknown father's parental rights with reference to the child without regard
29 to subsection (h). If any person identified as the father or possible father of
30 the child fails to appear or, if appearing, fails to claim custodial rights,
31 such person's parental rights with reference to the child shall be terminated
32 without regard to subsection (h).

33 (h) (1) When a father or alleged father appears and asserts parental
34 rights, the court shall determine parentage, if necessary pursuant to the
35 Kansas parentage act, K.S.A. 2013 Supp. 23-2201 et seq., and
36 amendments thereto. If a father desires but is financially unable to employ
37 an attorney, the court shall appoint an attorney for the father. Thereafter,
38 the court may order that parental rights be terminated, upon a finding by
39 clear and convincing evidence, of any of the following:

40 (A) The father abandoned or neglected the child after having
41 knowledge of the child's birth;

42 (B) the father is unfit as a parent or incapable of giving consent;

43 (C) the father has made no reasonable efforts to support or

1 communicate with the child after having knowledge of the child's birth;

2 (D) the father, after having knowledge of the pregnancy, failed
3 without reasonable cause to provide support for the mother during the six
4 months prior to the child's birth;

5 (E) the father abandoned the mother after having knowledge of the
6 pregnancy;

7 (F) the birth of the child was the result of rape of the mother; or

8 (G) the father has failed or refused to assume the duties of a parent
9 for two consecutive years next preceding the filing of the petition.

10 (2) In making a finding whether parental rights shall be terminated
11 under this subsection, the court may:

12 (A) Consider and weigh the ~~best interest of~~ *least detrimental*
13 *alternative for* the child; and

14 (B) disregard incidental visitations, contacts, communications or
15 contributions.

16 (3) In determining whether the father has failed or refused to assume
17 the duties of a parent for two consecutive years next preceding the filing of
18 the petition for adoption, there shall be a rebuttable presumption that if the
19 father, after having knowledge of the child's birth, has knowingly failed to
20 provide a substantial portion of the child support as required by judicial
21 decree, when financially able to do so, for a period of two years next
22 preceding the filing of the petition for adoption, then such father has failed
23 or refused to assume the duties of a parent.

24 (i) A termination of parental rights under this section shall not
25 terminate the right of the child to inherit from or through the parent. Upon
26 such termination, all the rights of birth parents to such child, including
27 their right to inherit from or through such child, shall cease.

28 Sec. 56. K.S.A. 2013 Supp. 72-53,106 is hereby amended to read as
29 follows: 72-53,106. (a) As used in this section:

30 (1) "School" means every school district and every nonpublic school
31 operating in this state.

32 (2) "School board" means the board of education of a school district
33 or the governing authority of a nonpublic school.

34 (3) "Proof of identity" means: (A) In the case of a child enrolling in
35 kindergarten or first grade, a certified copy of the birth certificate of the
36 child or, as an alternative, for a child who is in the custody of the secretary
37 ~~of social and rehabilitation services for children and families~~, a certified
38 copy of the court order placing the child in the custody of the secretary
39 and, in the case of a child enrolling in any of the grades two through 12, a
40 certified transcript or other similar pupil records or data; or (B) any
41 documentary evidence which a school board deems to be satisfactory
42 proof of identity.

43 (b) Whenever a child enrolls or is enrolled in a school for the first

1 time, the school board of the school in which the child in enrolling or
2 being enrolled shall require, in accordance with a policy adopted by the
3 school board, presentation of proof of identity of the child. If proof of
4 identity of the child is not presented to the school board within 30 days
5 after enrollment, the school board shall immediately give written notice
6 thereof to a law enforcement agency having jurisdiction within the home
7 county of the school. Upon receipt of the written notice, the law
8 enforcement agency shall promptly conduct an investigation to determine
9 the identity of the child. No person or persons claiming custody of the
10 child shall be informed of the investigation while it is being conducted.

11 (c) Schools and law enforcement agencies shall cooperate with each
12 other in the conducting of any investigation required by this section.
13 School personnel shall provide law enforcement agencies with access on
14 school premises to any child whose identity is being investigated. School
15 personnel shall be present at all times any law enforcement agency
16 personnel are on school premises for the purpose of conducting any such
17 investigation unless the school personnel and the law enforcement agency
18 personnel agree that their joint presence is not ~~in the best interests of the~~
19 *least detrimental alternative for* the child. School personnel who are
20 present during the conducting by a law enforcement agency of an
21 investigation on school premises to determine the identity of a child in
22 accordance with the requirements of this section are subject to the
23 confidentiality requirements of the revised Kansas code for care of
24 children.

25 (d) Upon receipt by a school of a notice from a law enforcement
26 agency that a child who is or has been enrolled in the school has been
27 reported as a missing child, the school shall make note of the same in a
28 conspicuous manner on the school records of the child and shall keep such
29 school records separate from the school records of all other children
30 enrolled in the school. Upon receipt by the school of a request for the
31 school records of the child, the school shall notify the law enforcement
32 agency of the request.

33 (e) Each school board may designate and authorize one or more of its
34 school personnel to act on behalf of the school board in complying with
35 the requirements of this section.

36 (f) Information gathered in the course of the investigation to establish
37 the identity of a child pursuant to this section shall be confidential and
38 shall be used only to establish the identity of the child or in support of any
39 criminal prosecution emanating from the investigation.

40 Sec. 57. K.S.A. 2013 Supp. 75-7023 is hereby amended to read as
41 follows: 75-7023. (a) The supreme court through administrative orders
42 shall provide for the establishment of a juvenile intake and assessment
43 system and for the establishment and operation of juvenile intake and

1 assessment programs in each judicial district. On and after July 1, 1997,
2 ~~the secretary of social and rehabilitation services for children and families~~
3 may contract with the commissioner of juvenile justice to provide for the
4 juvenile intake and assessment system and programs for children in need
5 of care. Except as provided further, on and after July 1, 1997, the
6 commissioner of juvenile justice shall promulgate rules and regulations for
7 the juvenile intake and assessment system and programs concerning
8 juvenile offenders. If the commissioner contracts with the office of judicial
9 administration to administer the juvenile intake and assessment system and
10 programs concerning juvenile offenders, the supreme court administrative
11 orders shall be in force until such contract ends and the rules and
12 regulations concerning juvenile intake and assessment system and
13 programs concerning juvenile offenders have been adopted.

14 (b) No records, reports and information obtained as a part of the
15 juvenile intake and assessment process may be admitted into evidence in
16 any proceeding and may not be used in a child in need of care proceeding
17 except for diagnostic and referral purposes and by the court in considering
18 dispositional alternatives. However, if the records, reports or information
19 are in regard to abuse or neglect, which is required to be reported under
20 K.S.A. 2013 Supp. 38-2223, and amendments thereto, such records,
21 reports or information may then be used for any purpose in a child in need
22 of care proceeding pursuant to the revised Kansas code for care of
23 children.

24 (c) Upon a juvenile being taken into custody pursuant to K.S.A. 2013
25 Supp. 38-2330, and amendments thereto, a juvenile intake and assessment
26 worker shall complete the intake and assessment process as required by
27 supreme court administrative order or district court rule prior to July 1,
28 1997, or except as provided above rules and regulations established by the
29 commissioner of juvenile justice on and after July 1, 1997.

30 (d) Except as provided in subsection (g) and in addition to any other
31 information required by the supreme court administrative order, the
32 secretary, the commissioner or by the district court of such district, the
33 juvenile intake and assessment worker shall collect the following
34 information:

35 (1) A standardized risk assessment tool, such as the problem oriented
36 screening instrument for teens;

37 (2) criminal history, including indications of criminal gang
38 involvement;

39 (3) abuse history;

40 (4) substance abuse history;

41 (5) history of prior community services used or treatments provided;

42 (6) educational history;

43 (7) medical history; and

1 (8) family history.

2 (e) After completion of the intake and assessment process for such
3 child, the intake and assessment worker may:

4 (1) Release the child to the custody of the child's parent, other legal
5 guardian or another appropriate adult if the intake and assessment worker
6 believes that it would be ~~in the best interest of~~ *the least detrimental*
7 *alternative for* the child and it would not be harmful to the child to do so.

8 (2) Conditionally release the child to the child's parent, other legal
9 guardian or another appropriate adult if the intake and assessment worker
10 believes that if the conditions are met, it would be in the ~~child's best~~
11 ~~interest~~ *least detrimental alternative for the child* to release the child to
12 such child's parent, other legal guardian or another appropriate adult; and
13 the intake and assessment worker has reason to believe that it might be
14 harmful to the child to release the child to such child's parents, other legal
15 guardian or another appropriate adult without imposing the conditions. The
16 conditions may include, but not be limited to:

17 (A) Participation of the child in counseling;

18 (B) participation of members of the child's family in counseling;

19 (C) participation by the child, members of the child's family and other
20 relevant persons in mediation;

21 (D) provision of inpatient treatment for the child;

22 (E) referral of the child and the child's family to the secretary ~~of~~
23 ~~social and rehabilitation services for children and families~~ for services and
24 the agreement of the child and family to accept and participate in the
25 services offered;

26 (F) referral of the child and the child's family to available community
27 resources or services and the agreement of the child and family to accept
28 and participate in the services offered;

29 (G) requiring the child and members of the child's family to enter into
30 a behavioral contract which may provide for regular school attendance
31 among other requirements; or

32 (H) any special conditions necessary to protect the child from future
33 abuse or neglect.

34 (3) Deliver the child to a shelter facility or a licensed attendant care
35 center along with the law enforcement officer's written application. The
36 shelter facility or licensed attendant care facility shall then have custody as
37 if the child had been directly delivered to the facility by the law
38 enforcement officer pursuant to K.S.A. 2013 Supp. 38-2232, and
39 amendments thereto.

40 (4) Refer the child to the county or district attorney for appropriate
41 proceedings to be filed or refer the child and family to the secretary ~~of~~
42 ~~social and rehabilitation services for children and families~~ for
43 investigations in regard to the allegations.

1 (5) Make recommendations to the county or district attorney
2 concerning immediate intervention programs which may be beneficial to
3 the juvenile.

4 (f) The commissioner may adopt rules and regulations which allow
5 local juvenile intake and assessment programs to create a risk assessment
6 tool, as long as such tool meets the mandatory reporting requirements
7 established by the commissioner.

8 (g) Parents, guardians and juveniles may access the juvenile intake
9 and assessment programs on a voluntary basis. The parent or guardian
10 shall be responsible for the costs of any such program utilized.

11 Sec. 58. K.S.A. 39-7,149 and K.S.A. 2013 Supp. 23-2204, 23-2208,
12 23-2209, 23-2215, 23-2225, 23-3004, 23-3103, 23-3201, 23-3202, 23-
13 3203, 23-3205, 23-3206, 23-3207, 23-3210, 23-3211, 23-3212, 23-3213,
14 23-3217, 23-3221, 23-3222, 23-3301, 23-3302, 23-3403, 23-3503, 23-
15 3510, 38-2202, 38-2205, 38-2206, 38-2212, 38-2213, 38-2226, 38-2229,
16 38-2231, 38-2232, 38-2234, 38-2241, 38-2242, 38-2243, 38-2244, 38-
17 2247, 38-2252, 38-2255, 38-2258, 38-2259, 38-2264, 38-2267, 38-2269,
18 38-2270, 38-2272, 38-2277, 38-2286, 38-2302, 39-7,145, 59-2136, 72-
19 53,106 and 75-7023 are hereby repealed.

20 Sec. 59. This act shall take effect and be in force from and after its
21 publication in the statute book.