

HOUSE BILL No. 2716

By Committee on Children and Seniors

2-14

1 AN ACT concerning children and minors; relating to adoption; amending
2 K.S.A. 59-2115, 59-2116 and 59-2121 and K.S.A. 2013 Supp. 59-2133
3 and 65-508 and repealing the existing sections.
4

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

6 Section 1. K.S.A. 59-2115 is hereby amended to read as follows: 59-
7 2115. ~~Minority of a parent shall not invalidate a parent's consent or~~
8 ~~relinquishment, except that A minor parent shall have the advice of~~
9 independent legal counsel as to the consequences of the consent or
10 relinquishment prior to its execution. The attorney providing independent
11 legal advice to the ~~minor~~ parent shall be present at the execution of the
12 consent or relinquishment. Unless the ~~minor~~ parent is otherwise
13 represented by independent legal counsel, the petitioner or child placing
14 agency shall provide independent legal counsel to the ~~minor~~ parent at such
15 petitioner's or child placing agency's sole expense.

16 Sec. 2. K.S.A. 59-2116 is hereby amended to read as follows: 59-
17 2116. (a) A consent or relinquishment may not be given by the mother or
18 accepted until ~~12~~ 24 hours after the birth of a child. Any consent or
19 relinquishment given by the mother before ~~12~~ 24 hours after the birth of a
20 child is voidable, prior to the final decree of adoption.

21 (b) *Knowingly accepting consent or relinquishment from a mother*
22 *before 24 hours after the birth of a child in violation of this section is a*
23 *class A nonperson misdemeanor.*

24 Sec. 3. K.S.A. 59-2121 is hereby amended to read as follows: 59-
25 2121. (a) Except as otherwise authorized by law, no person shall request,
26 receive, give or offer to give any consideration in connection with an
27 adoption, or a placement for adoption, other than:

28 (1) Reasonable fees for legal and other professional services rendered
29 in connection with the placement or adoption not to exceed customary fees
30 for similar services by professionals of equivalent experience and
31 reputation where the services are performed, except that fees for legal and
32 other professional services as provided in this section performed outside
33 the state shall not exceed customary fees for similar services when
34 performed in the state of Kansas;

35 (2) reasonable fees in the state of Kansas of a licensed child-placing
36 agency;

1 (3) actual and necessary expenses, based on expenses in the state of
2 Kansas, incident to placement or to the adoption proceeding;

3 (4) actual medical expenses of the mother attributable to pregnancy
4 and birth; *and*

5 (5) actual medical expenses of the child; ~~and~~

6 ~~(6) reasonable living expenses of the mother which are incurred~~
7 ~~during or as a result of the pregnancy.~~

8 (b) In an action for adoption, a detailed accounting of all
9 consideration given, or to be given, and all disbursements made, or to be
10 made, in connection with the adoption and the placement for adoption
11 shall accompany the petition for adoption. Upon review of the accounting,
12 the court shall disapprove any such consideration which the court
13 determines to be unreasonable or in violation of this section and, to the
14 extent necessary to comply with the provisions of this section, shall order
15 reimbursement of any consideration already given in violation of this
16 section.

17 (c) (1) ~~Knowingly and intentionally~~ receiving or accepting clearly
18 excessive fees or expenses in violation of subsection (a) ~~shall be~~ *is* a
19 severity level 9 8, nonperson felony. Knowingly failing to list all
20 consideration or disbursements as required by subsection (b) ~~shall be~~ *is* a
21 class B nonperson misdemeanor.

22 (2) *The court shall file a complaint with the disciplinary*
23 *administrator for any violation of this subsection by an attorney licensed*
24 *in this state.*

25 Sec. 4. K.S.A. 2013 Supp. 59-2133 is hereby amended to read as
26 follows: 59-2133. (a) Upon filing the petition, the court shall fix the time
27 and place for the hearing. *For child in need of care cases in which the*
28 *child in need of care is less than one year of age, the time fixed for the*
29 *hearing may be any time not more than 60 days from the date the petition*
30 *is filed. For all other cases, the time fixed for the hearing may be any time*
31 *not more than 30 days from the date the petition is filed.* The time fixed for
32 the hearing may be extended by the court for good cause.

33 (b) In independent and stepparent adoptions notice of the hearing on
34 the petition shall be given to the parents or presumed parents, unless
35 waived by the party entitled to notice or unless parental rights have been
36 previously terminated, and any other persons as the court may direct,
37 unless waived by the party entitled to notice. Notice also shall be given in
38 an independent adoption to a legal guardian of the child or individual in
39 loco parentis, unless waived by the party entitled to notice.

40 (c) In an agency adoption notice of the hearing on the petition shall
41 be given to the consenting agency, unless waived by the party entitled to
42 notice.

43 (d) Notice given pursuant to this section shall not include a copy of

1 the petition.

2 Sec. 5. K.S.A. 2013 Supp. 65-508 is hereby amended to read as
3 follows: 65-508. (a) Any maternity center or child care facility subject to
4 the provisions of this act shall: (1) Be properly heated, plumbed, lighted
5 and ventilated; (2) have plumbing, water and sewerage systems which
6 conform to all applicable state and local laws; and (3) be operated with
7 strict regard to the health, safety and welfare of any woman or child.

8 (b) Every maternity center or child care facility shall furnish or cause
9 to be furnished for the use of each resident and employee individual towel,
10 wash cloth, comb and individual drinking cup or sanitary bubbling
11 fountain, and toothbrushes for all other than infants, and shall keep or
12 require such articles to be kept at all times in a clean and sanitary
13 condition. Every maternity center or child care facility shall comply with
14 all applicable fire codes and rules and regulations of the state fire marshal.

15 (c) (1) The secretary of health and environment with the cooperation
16 of the secretary of social and rehabilitation services shall develop and
17 adopt rules and regulations for the operation and maintenance of maternity
18 centers and child care facilities. The rules and regulations for operating
19 and maintaining maternity centers and child care facilities shall be
20 designed to promote the health, safety and welfare of any woman or child
21 served in such facilities by ensuring safe and adequate physical
22 surroundings, healthful food, adequate handwashing, safe storage of toxic
23 substances and hazardous chemicals, sanitary diapering and toileting,
24 home sanitation, supervision and care of the residents by capable, qualified
25 persons of sufficient number, after hour care, an adequate program of
26 activities and services, sudden infant death syndrome and safe sleep
27 practices training, prohibition on corporal punishment, crib safety,
28 protection from electrical hazards, protection from swimming pools and
29 other water sources, fire drills, emergency plans, safety of outdoor
30 playground surfaces, door locks, safety gates and transportation and such
31 appropriate parental participation as may be feasible under the
32 circumstances. Boarding schools are excluded from requirements
33 regarding the number of qualified persons who must supervise and provide
34 care to residents.

35 (2) Rules and regulations developed under this subsection shall
36 include provisions for the competent supervision and care of children in
37 day care facilities. For purposes of such rules and regulations, competent
38 supervision as this term relates to children less than five years of age
39 includes, but is not limited to, direction of activities, adequate oversight
40 including sight or sound monitoring, or both, physical proximity to
41 children, diapering and toileting practices; and for all children, competent
42 supervision includes, but is not limited to, planning and supervision of
43 daily activities, safe sleep practices, including, but not limited to, visual or

1 sound monitoring, periodic checking, emergency response procedures and
2 drills, illness and injury response procedures, food service preparation and
3 sanitation, playground supervision, pool and water safety practices. *All*
4 *rules and regulations adopted pursuant to this subsection shall be*
5 *reviewed and updated at least once every five years.*

6 (d) Each child cared for in a child care facility, including children of
7 the person maintaining the facility, shall be required to have current such
8 immunizations as the secretary of health and environment considers
9 necessary. The person maintaining a child care facility shall maintain a
10 record of each child's immunizations and shall provide to the secretary of
11 health and environment such information relating thereto, in accordance
12 with rules and regulations of the secretary, but the person maintaining a
13 child care facility shall not have such person's license revoked solely for
14 the failure to have or to maintain the immunization records required by
15 this subsection.

16 (e) The immunization requirement of subsection (d) shall not apply if
17 one of the following is obtained:

18 (1) Certification from a licensed physician stating that the physical
19 condition of the child is such that immunization would endanger the child's
20 life or health; or

21 (2) a written statement signed by a parent or guardian that the parent
22 or guardian is an adherent of a religious denomination whose teachings are
23 opposed to immunizations.

24 Sec. 6. K.S.A. 59-2115, 59-2116 and 59-2121 and K.S.A. 2013 Supp.
25 59-2133 and 65-508 are hereby repealed.

26 Sec. 7. This act shall take effect and be in force from and after its
27 publication in the statute book.