

**SENATE BILL No. 410**

By Committee on Judiciary

2-4

1 AN ACT concerning the revised Kansas code for care of children;  
2 establishing a CARE family pilot program for foster care; amending  
3 K.S.A. 2015 Supp. 38-2218 and repealing the existing section.  
4

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

6 New Section 1. (a) The secretary ~~shall~~ **is authorized to** establish a  
7 ~~special~~ category of foster care to be known as a CARE family. A CARE  
8 family may be selected and licensed by the secretary only if the family  
9 meets the requirements specified in this section. The secretary shall  
10 promulgate rules and regulations to implement the provisions of this  
11 section on or before January 1, 2017.

12 (b) A family shall meet the following requirements, and any  
13 additional requirements imposed by the secretary, to become licensed as a  
14 CARE family:

15 (1) A lawfully married couple in a stable relationship, married for at  
16 least seven years;

17 (2) submit to a background check on both spouses;

18 (3) no use of tobacco by anyone inside the family's home;

19 (4) no history of unlawful drug use for the past seven years by anyone  
20 currently living in the family's home;

21 (5) no alcoholic liquor or cereal malt beverages in the family's home;

22 (6) both spouses have attained at least a high school diploma or  
23 equivalent;

24 (7) at least one spouse does not work outside the home;

25 (8) the family is actively, regularly socially involved in their local  
26 community; and

27 (9) provide the secretary at least three references from people familiar  
28 with the family.

29 ~~(c) Notwithstanding any law to the contrary, a CARE family's home~~  
30 ~~shall not be considered a child care facility and shall not be required to be~~  
31 ~~licensed under article 5 of chapter 65 of the Kansas Statutes Annotated,~~  
32 ~~and amendments thereto.~~

33 ~~(d)~~ (1) The secretary shall insure that each CARE family is highly  
34 trained with respect to child in need of care issues, including legal and  
35 mental health concerns. Continuing education and regular meetings with  
36 other CARE families ~~shall~~ **may** be used to provide ongoing training and

1 counseling sessions.

2 (2) The secretary shall insure that each CARE family is supervised to  
3 verify that the family is performing well as a CARE family.

4 (3) A CARE family shall serve on a volunteer basis and shall not  
5 receive payment or reimbursement for care of any child placed with the  
6 family.

7 ~~(e)~~ **(d)** (1) The secretary shall notify each CARE family that the  
8 CARE family has a right to submit a report. Copies of the report shall be  
9 available to the parties and interested parties. The report made by the  
10 CARE family shall be on a form created and provided by the Kansas  
11 department for children and families.

12 (2) Except as otherwise provided by law, in all proceedings under the  
13 revised Kansas code for care of children, the court shall require notice to  
14 the CARE family and the CARE family shall have the right to be heard.

15 ~~(f)~~ **(e)** (1) Notwithstanding any other law to the contrary, a CARE  
16 family, together with the court and the secretary, shall determine how best  
17 to meet the educational needs of any child placed with the family. If a  
18 child is not enrolled in a school district by the CARE family, the CARE  
19 family shall notify the secretary regarding the school and curriculum being  
20 used to educate such child. The secretary shall reimburse the CARE family  
21 for **actual** educational expenses incurred for each child who is not enrolled  
22 in a school district in an amount not to exceed the statewide average state  
23 aid per pupil. Such reimbursements shall be paid from the ~~CARE family~~  
24 **juvenile out-of-home placement** education fund established in this  
25 subsection. If sufficient funds are not available for such reimbursements,  
26 then the requests for reimbursement shall be considered in the order  
27 received when funds are available for such purpose.

28 (2) The secretary shall notify the state board of education of every  
29 child not enrolled in a school district by a CARE family. Annually, on or  
30 before July 1, beginning on July 1, 2017, the state board of education shall  
31 certify to the director of accounts and reports the amount required for  
32 CARE family state aid pursuant to this subsection, and an amount equal  
33 thereto shall be transferred by the director from the state general fund to  
34 the ~~CARE family~~ **juvenile out-of-home placement** education fund. All  
35 transfers made in accordance with the provisions of this subsection shall  
36 be considered to be demand transfers from the state general fund.

37 (3) There is hereby established in the state treasury the ~~CARE family~~  
38 **juvenile out-of-home placement** education fund to be administered by the  
39 secretary. All expenditures from such fund shall be made in accordance  
40 with appropriation acts upon warrants of the director of accounts and  
41 reports issued pursuant to vouchers approved by the secretary or the  
42 secretary's designee. All moneys credited to the ~~CARE family~~ **juvenile**  
43 **out-of-home placement** education fund shall be expended to reimburse

1 CARE families for *actual* educational expenses incurred for children not  
2 enrolled in a school district by a CARE family.

3 (4) As used in this subsection, the term "statewide average state aid  
4 per pupil" means the total general state aid for all school districts as  
5 determined by the state board for the immediately preceding school year  
6 divided by the total enrollment of pupils in all school districts for the  
7 immediately preceding school year.

8 (5) For purposes of this subsection and for calculating enrollment, a  
9 resident school district shall not count any student placed with a CARE  
10 family and not enrolled in a school district as a pupil of such resident  
11 school district. As used in this paragraph, "resident school district" means  
12 the school district in which the student resides and would otherwise be  
13 enrolled.

14 ~~(g)~~ (f) Notwithstanding any other law to the contrary, the secretary  
15 shall not remove a child from a CARE family placement unless:

16 (1) The child is removed to achieve permanency through  
17 reintegration, adoption, appointment of a permanent custodian or another  
18 planned permanent living arrangement; or

19 (2) the secretary finds probable cause that:

20 (A) (i) The child is likely to sustain harm if not immediately removed  
21 from the home;(ii) allowing the child to remain in the home is contrary to  
22 the welfare of the child; or (iii) immediate placement of the child is in the  
23 best interest of the child; and

24 (B) reasonable efforts have been made to prevent the unnecessary  
25 removal of the child from the CARE family's home or that an emergency  
26 exists which threatens the safety of the child.

27 ~~(h)~~ (g) This section shall be part of and supplemental to the revised  
28 Kansas code for care of children.

29 ~~(i)~~ (h) The provisions of this section shall expire on July 1, 2022.

30 Sec. 2. K.S.A. 2015 Supp. 38-2218 is hereby amended to read as  
31 follows: 38-2218. (a) When the court has granted legal custody of a child  
32 in a hearing under the code to an agency, association or individual, the  
33 custodian or an agent designated by the custodian shall have authority to  
34 make educational decisions for the child if the parents of the child are  
35 unknown or unavailable. When the custodian of the child is the secretary,  
36 and the parents of the child are unknown or unavailable, and the child  
37 appears to be an exceptional child who requires special education, the  
38 secretary shall immediately notify the state board of education, or a  
39 designee of the state board, and the school district in which the child is  
40 residing that the child is in need of an education advocate. *If the secretary*  
41 *has placed the child with a CARE family, as defined in section 1, and*  
42 *amendments thereto, the CARE family shall become the education*  
43 *advocate for such child.* As used in this section, a parent is unavailable if:

1 (1) Repeated attempts have been made to contact the parent to  
2 provide notice of an IEP meeting and secure the parent's participation and  
3 such attempts have been unsuccessful;

4 (2) having been provided actual notice of an IEP meeting, the parent  
5 has failed or refused to attend and participate in the meeting; or

6 (3) the parent's whereabouts are unknown so that notice of an IEP  
7 meeting cannot be given to the parent. As soon as possible after  
8 notification, the state board of education, or its designee, shall appoint an  
9 education advocate for the child.

10 (b) If the secretary changes the placement of a pupil from one school  
11 district to another or to another school within the same district, *or a CARE*  
12 *family changes such placement*, it shall be the duty of the secretary to  
13 transfer, or make provision for the transfer, of all school records of such  
14 pupil to the district or school to which the pupil is transferred. Such school  
15 records shall be transferred at the same time that the pupil is transferred or  
16 as soon as possible thereafter.

17 (c) As used in this section, the terms "exceptional child," "special  
18 education," and "education advocate" have the meanings respectively  
19 ascribed thereto in the special education for exceptional children act,  
20 K.S.A. 72-961 et seq., and amendments thereto. The term "pupil" means a  
21 child living in a school district as a result of a placement therein by the  
22 secretary pursuant to this code.

23 Sec. 3. K.S.A. 2015 Supp. 38-2218 is hereby repealed.

24 Sec. 4. This act shall take effect and be in force from and after its  
25 publication in the statute book.