

SENATE BILL No. 410

By Committee on Judiciary

2-4

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

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

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

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

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

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

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

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

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

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

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

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

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

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

34 ~~(d)~~ (1) The secretary shall insure that each CARE family is highly

1 trained with respect to child in need of care issues, including legal and
2 mental health concerns. Continuing education and regular meetings with
3 other CARE families ~~shall~~ **may** be used to provide ongoing training and
4 counseling sessions.

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

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

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

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

18 ~~(f)~~ **(e)** (1) Notwithstanding any other law to the contrary, a CARE
19 family, together with the court and the secretary, shall determine how best
20 to meet the educational needs of any child placed with the family.

21 ***{(2) If a child is enrolled in a school district by the CARE family***
22 ***that is different than the school district in which the child was enrolled***
23 ***at the commencement of the current school year, then the school district***
24 ***in which the child is enrolled by the CARE family shall be paid by the***
25 ***secretary from the juvenile out-of-home placement education fund a***
26 ***monthly amount that is equal to the general fund budget of such school***
27 ***district, excluding moneys held in the special education and related***
28 ***services fund, the special retirement contributions fund, the capital***
29 ***outlay fund or bond and interest fund of the school district, the proceeds***
30 ***of any tax levied by such school district that are directly deposited in a***
31 ***fund of such school district and any moneys received by the school***
32 ***district pursuant to federal law, for the current school year divided by***
33 ***the total enrollment of such school district for the current school year***
34 ***divided by 12. The school district shall only be paid for those months in***
35 ***which the child is enrolled in the school district as of the first day of the***
36 ***month. Payments shall be made by the secretary to the school district on***
37 ***the first day of the month or as soon thereafter as sufficient moneys are***
38 ***available in the juvenile out-of-home placement education fund.***

39 **(3)** }If a child is not enrolled in a school district by the CARE family,
40 the CARE family shall notify the secretary regarding the school and
41 curriculum being used to educate such child. The secretary shall reimburse
42 the CARE family for **actual** educational expenses incurred for each child
43 who is not enrolled in a school district in an amount not to exceed the

1 statewide average state aid per pupil. Such reimbursements shall be paid
2 from the ~~CARE family~~ *juvenile out-of-home placement* education fund
3 established in this ~~subsection~~ *{section}*. If sufficient funds are not available
4 for such reimbursements, then the requests for reimbursement shall be
5 considered in the order received when funds are available for such
6 purpose.

7 ~~(2) The secretary shall notify the state board of education of every~~
8 ~~child not enrolled in a school district by a CARE family. Annually, on or~~
9 ~~before July 1, beginning on July 1, 2017, the state board of education shall~~
10 ~~certify to the director of accounts and reports the amount required for~~
11 ~~CARE family state aid pursuant to this subsection, and an amount equal~~
12 ~~thereto shall be transferred by the director from the state general fund to~~
13 ~~the CARE family~~ *juvenile out-of-home placement* education fund. All
14 transfers made in accordance with the provisions of this subsection shall
15 be considered to be demand transfers from the state general fund.

16 ~~(3) {(f)}~~ There is hereby established in the state treasury the ~~CARE~~
17 ~~family~~ *juvenile out-of-home placement* education fund to be administered
18 by the secretary. All expenditures from such fund shall be made in
19 accordance with appropriation acts upon warrants of the director of
20 accounts and reports issued pursuant to vouchers approved by the
21 secretary or the secretary's designee. All moneys credited to the ~~CARE~~
22 ~~family~~ *juvenile out-of-home placement* education fund shall be expended
23 to reimburse CARE families for *actual* educational expenses incurred for
24 children not enrolled in a school district by a CARE family *{for the*
25 *purposes set forth in this section}*.

26 *{(g) (1) The secretary shall annually notify the state board of*
27 *education of every child who was placed with a CARE family on or*
28 *before July 1 and who is not enrolled in a school district by the CARE*
29 *family. Commencing July 1, 2017, and each July 1 thereafter, the state*
30 *board of education shall multiply the number of children reported by the*
31 *secretary under this subsection by the statewide average state aid per*
32 *pupil. The state board shall certify the resulting product to the director*
33 *of accounts and reports and an amount equal thereto shall be*
34 *transferred by the director from the state general fund to the juvenile*
35 *out-of-home placement education fund. All transfers made in*
36 *accordance with the provisions of this subsection shall be considered to*
37 *be demand transfers from the state general fund.*

38 *(2) The court shall notify any school district when a child has been*
39 *placed with a CARE family pursuant to the revised Kansas code for care*
40 *of children and is no longer attending a school in such school district.*
41 *Upon receipt of such notification, for any month during the current*
42 *school year in which such child is not enrolled in such school district as*
43 *of the first day of such month, such school district shall remit to the*

1 *secretary an amount equal to the general fund budget of such school*
 2 *district, excluding moneys held in the special education and related*
 3 *services fund, the special retirement contributions fund, the capital*
 4 *outlay fund or bond and interest fund of the school district, the proceeds*
 5 *of any tax levied by such school district that are directly deposited in a*
 6 *fund of such school district and any moneys received by the school*
 7 *district pursuant to federal law, for the current school year divided by*
 8 *the total enrollment of such school district for the current school year*
 9 *divided by 12. Such remittance shall be made on the first business day of*
 10 *such month. The secretary shall remit any moneys so received to the*
 11 *state treasurer in accordance with the provisions of K.S.A. 75-4215, and*
 12 *amendments thereto. Upon receipt of each such remittance, the state*
 13 *treasurer shall deposit the entire amount in the state treasury to the*
 14 *credit of the juvenile out-of-home placement education fund.}*

15 ~~(4)~~ **{(h)}** As used in this ~~subsection~~ **{section}**, the term "statewide
 16 average state aid per pupil" means the total general state aid for all school
 17 districts, *excluding special education and related services state aid, any*
 18 *amount certified by the board of trustees of the Kansas public employees*
 19 *retirement system which is equal to the participating employer's*
 20 *obligation, any amount attributed as capital outlay state aid and any*
 21 *capital improvement state aid,}* as determined by the state board for the
 22 immediately preceding school year divided by the total enrollment of
 23 pupils in all school districts for the immediately preceding school year.

24 ~~(5)~~ **{(i)}** For purposes of this ~~subsection~~ **{section}** and for calculating
 25 enrollment, a resident school district shall not count any student placed
 26 with a CARE family and not enrolled in a school district as a pupil of such
 27 resident school district. As used in this paragraph, "resident school district"
 28 means the school district in which the student resides and would otherwise
 29 be enrolled.

30 ~~(g)~~ ~~(f)~~ **{(j)}** Notwithstanding any other law to the contrary, the
 31 secretary shall not remove a child from a CARE family placement unless:

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

35 (2) the secretary finds probable cause that:

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

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

43 ~~(h)~~ ~~(g)~~ **{(k)}** This section shall be part of and supplemental to the

1 revised Kansas code for care of children.

2 ~~(+)(*)~~ **{(I)}** The provisions of this section shall expire on July 1, 2022.

3 Sec. 2. K.S.A. 2015 Supp. 38-2218 is hereby amended to read as
4 follows: 38-2218. (a) When the court has granted legal custody of a child
5 in a hearing under the code to an agency, association or individual, the
6 custodian or an agent designated by the custodian shall have authority to
7 make educational decisions for the child if the parents of the child are
8 unknown or unavailable. When the custodian of the child is the secretary,
9 and the parents of the child are unknown or unavailable, and the child
10 appears to be an exceptional child who requires special education, the
11 secretary shall immediately notify the state board of education, or a
12 designee of the state board, and the school district in which the child is
13 residing that the child is in need of an education advocate. *If the secretary*
14 *has placed the child with a CARE family, as defined in section 1, and*
15 *amendments thereto, the CARE family shall become the education*
16 *advocate for such child.* As used in this section, a parent is unavailable if:

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

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

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

26 (b) If the secretary changes the placement of a pupil from one school
27 district to another or to another school within the same district, *or a CARE*
28 *family changes such placement,* it shall be the duty of the secretary to
29 transfer, or make provision for the transfer, of all school records of such
30 pupil to the district or school to which the pupil is transferred. Such school
31 records shall be transferred at the same time that the pupil is transferred or
32 as soon as possible thereafter.

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

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

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