

HOUSE BILL No. 2735

By Committee on Federal and State Affairs

3-9

1 AN ACT concerning children and families; preserving families that
2 include a parent who is blind; providing for certain considerations
3 relating to cases involving legal custody, residency, parenting time and
4 children in need of care.

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

7 Section 1. (a) The purpose of sections 1 through 3, and amendments
8 thereto, is to protect the best interests of children parented by blind
9 individuals or who could be parented by blind individuals through the
10 establishment of procedural safeguards that require adherence to the
11 federal Americans with disabilities act of 1990, and respect for the due
12 process and equal protection rights of parents and prospective parents who
13 are blind in the context of child welfare, foster care, family law and
14 adoption.

15 (b) The legislature hereby finds and declares that:

16 (1) Blind individuals continue to face unfair, preconceived and
17 unnecessary societal biases as well as antiquated attitudes regarding such
18 individuals' ability to successfully parent their children;

19 (2) blind individuals face these biases and preconceived attitudes in
20 family and dependency law proceedings where legal custody, residency
21 and parenting time are at stake and in public and private adoption,
22 guardianship and foster care proceedings;

23 (3) because of these societal biases and antiquated attitudes, children
24 of blind parents are unnecessarily being removed from their parents' care
25 or being restricted from enjoying meaningful time with their parents; and

26 (4) children are being denied the opportunity to enjoy the experience
27 of living in loving homes with blind parents or other blind caretakers.

28 Sec. 2. As used in sections 1 through 3, and amendments thereto:

29 (a) "Blind" or "blindness" means a central visual acuity of 20/200 or
30 less in the better eye with the use of a correcting lens. An eye that has a
31 limitation in the field of vision so that the widest diameter of the visual
32 field subtends an angle no greater than 20 degrees is considered to have a
33 central visual acuity of 20/200 or less. The term "blind" or "blindness"
34 includes any degenerative condition that reasonably can be expected to
35 result in blindness.

36 (b) "Supportive parenting services" means services, including, but not

1 limited to, services, aids and supports provided by the parent, that may
2 assist a parent or prospective parent who is blind in the effective use of
3 non-visual techniques and other alternative methods to enable the parent or
4 prospective parent to discharge parental responsibilities as successfully as
5 a parent who is not blind.

6 Sec. 3. (a) In any action brought under article 22 or article 27 of
7 chapter 23 of the Kansas Statutes Annotated, and amendments thereto:

8 (1) A parent's blindness shall not serve as a basis for denial or
9 restriction of legal custody, residency or parenting time when such legal
10 custody, residency or parenting time is determined to be otherwise in the
11 best interests of the child;

12 (2) (A) if a parent's blindness is alleged to not be in the best interests
13 of a child, the party asserting such allegation shall have the burden of
14 proving by clear and convincing evidence that the parent's blindness is not
15 in the best interests of the child;

16 (B) if a party asserting an allegation described in subparagraph (A)
17 has satisfied such party's burden of proof, the blind parent shall have the
18 opportunity to present evidence that, with the implementation of
19 supportive parenting services, placement with such parent is in the best
20 interests of the child; and

21 (C) the court may issue an order requiring that supportive parenting
22 services be implemented, and the parties may request that the court review
23 the need for continuing such supportive parenting services after a
24 reasonable period of time; and

25 (3) if a court denies or otherwise restricts a blind parent's request for
26 legal custody, residency or parenting time, the court shall make specific
27 findings of fact stating the basis for its decision, including reasons why the
28 provision of supportive parenting services is not a reasonable
29 accommodation that is in the best interests of the child.

30 (b) In any action brought under article 21 of chapter 59 of the Kansas
31 Statutes Annotated, and amendments thereto, a prospective parent's
32 blindness shall not serve as a basis for the denial of such prospective
33 parent's participation in any adoption when such adoption is determined to
34 be otherwise in the best interests of the child.

35 (c) In any action brought under article 30 of chapter 59 of the Kansas
36 Statutes Annotated, and amendments thereto, an individual's blindness
37 shall not serve as a basis for the denial of such individual's appointment as
38 a guardian when such appointment is determined to be otherwise in the
39 best interests of the child.

40 (d) An individual's blindness shall not serve as a basis for the denial
41 or restriction of such individual's licensure as a family foster home
42 pursuant to article 5 of chapter 65 of the Kansas Statutes Annotated, and
43 amendments thereto.

1 (e) (1) In any action brought under article 22 of chapter 38 of the
2 Kansas Statutes Annotated, and amendments thereto, an individual's
3 blindness shall not serve as a basis for an order of temporary custody,
4 adjudication, disposition, finding of unfitness or termination of parental
5 rights.

6 (2) If a court issues an order of temporary custody, adjudication,
7 disposition, finding of unfitness or termination of parental rights that is
8 adverse to an individual who is a party to the proceeding and who is blind,
9 the court shall make specific findings of fact stating the basis for its
10 decision, including reasons why the provision of supportive parenting
11 services is not a reasonable accommodation that is in the best interests of
12 the child.

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