

HOUSE BILL No. 2024

AN ACT concerning children and minors; relating to the revised Kansas code for care of children, federal Indian child welfare act, newborn infant protection act; relating to procedures in investigations of child abuse or neglect; requiring a child abuse review and evaluation referral; creating a program in the department of health and environment for the training and payment for child abuse reviews and exams; enacting the Representative Gail Finney memorial foster care bill of rights; granting rights to kinship caregivers under the revised Kansas code for care of children; allowing the surrender of physical custody of an infant to a newborn safety device; requiring inquiries and reporting of Indian child status; adding the requirement of great bodily harm to the crime of child abandonment to qualify for immunity; amending K.S.A. 38-2202, 38-2203, 38-2226, 38-2258, 38-2261 and 38-2282 and K.S.A. 2022 Supp. 21-5605 and repealing the existing sections.

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

New Section 1. (a) (1) When an investigation of child abuse or neglect conducted pursuant to K.S.A. 38-2226, and amendments thereto, includes a CARE referral that a child abuse medical resource center has recommended a CARE exam be conducted and the CARE provider determines a child has been subjected to physical abuse, emotional abuse, medical neglect or physical neglect, such determination shall be reported in a completed review and provided to the secretary for children and families and the local law enforcement agency or the agency's designee.

(2) When the secretary receives a completed review pursuant to paragraph (1), the secretary shall consider and include the completed review in making recommendations regarding the care, safety and placement of the child and maintain the completed review in the case record.

(3) Reviews conducted pursuant to paragraph (1) shall be confidential and not be disclosed except as provided in this section and K.S.A. 38-2209 through 38-2213, and amendments thereto.

(b) To provide forensic evaluation services to a child alleged to be a victim of physical abuse, emotional abuse, medical neglect or physical neglect in investigations that include a CARE exam:

(1) Child abuse medical resource centers may collaborate directly or through technology with CARE providers to provide forensic medical evaluations, medical training, support, mentoring and peer review to enhance the skill and role of child abuse medical resource centers and the CARE providers in a multidisciplinary context;

(2) CARE providers and child abuse medical resource centers shall provide and receive specialized training for medical evaluations conducted in a hospital, child advocacy center or by a private healthcare professional without the need for an agreement between such center and provider; and

(3) the CARE network shall develop recommendations concerning the medical-based screening process and forensic evidence collection for a child and provide such recommendations to CARE providers, child advocacy centers, hospitals and licensed practitioners.

(c) To implement and administer this section, the secretary of health and environment shall:

(1) Provide training for CARE providers to establish and maintain compliance with the requirements of K.S.A. 38-2202, and amendments thereto;

(2) assist in the implementation of subsection (b);

(3) pay for and manage a network referral system database; and

(4) adopt rules and regulations as necessary, subject to available appropriations.

(d) (1) A provider shall submit all charges for payment of reviews and CARE exams to the secretary of health and environment within 90 days after a review or exam has been performed.

(2) The secretary of health and environment shall pay all charges directly to the provider within 30 days after being submitted.

(3) The payment amount shall be for the exam at the rate not to exceed \$750 for providing such exam, excluding costs for treatment that may be required due to the diagnosis, or any facility fees, supplies or laboratory or radiology testing.

(4) If a provider is found to have submitted fraudulent charges, such provider shall be banned from the CARE network and the secretary of health and environment shall report such incident to the provider's licensing board. Such licensing board shall investigate such report to determine whether unprofessional conduct has occurred.

(5) On or before January 31, 2024, the secretary of health and environment shall prepare and present a report to the house of representatives standing committee on child welfare and foster care and the senate standing committee on public health and welfare, or their successor committees, of the activities and operations under this section. Such report shall include:

- (A) The number of providers who have submitted charges;
- (B) the number of reviews and CARE exams performed;
- (C) average charge submitted per review and CARE exam;
- (D) total amount paid out to providers;
- (E) the average number of days between when:
 - (i) A review or CARE exam is performed and charges are submitted; and
 - (ii) charges are submitted and paid to a provider; and
- (F) any findings of fraudulent charges.

(e) There is hereby established in the state treasury the child abuse review and evaluation fund, and such fund shall be administered by the secretary of health and environment. All expenditures from the child abuse review and evaluation fund shall be for payments of reviews, CARE exams, training of CARE providers and the implementation and administration of subsection (b), as needed. All expenditures from the child abuse review and evaluation fund shall be made in accordance with appropriation acts upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the secretary of health and environment or the secretary's designee. All moneys received for reviews, CARE exams and CARE provider training shall be remitted to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the child abuse review and evaluation fund.

(f) This section shall be a part of and supplemental to the revised Kansas code for care of children.

New Sec. 2. (a) This section shall be known and may be cited as the Representative Gail Finney memorial foster care bill of rights.

(b) Consistent with the policy of the state expressed in K.S.A. 38-2201 et seq., and amendments thereto, in order to ensure proper care and protection of a child in need of care in the child welfare system, unless otherwise ordered by the court, such child shall have the right to:

(1) Live in a safe, comfortable placement, in accordance with K.S.A. 38-2255, and amendments thereto:

- (A) Where such child lives in the least restrictive environment;
- (B) where such child shall be treated with respect, have a place to store belongings and receive healthy food, adequate clothing and appropriate personal hygiene products;
- (C) with siblings when possible; and
- (D) upon proper investigation and consideration in accordance with K.S.A. 38-2242, and amendments thereto, with a relative, kinship care placement or someone from such child's community with similar religious beliefs or ethnic heritage;

- (2) have visits with family;
- (3) have as few placements as possible;
- (4) have and maintain belongings by:
 - (A) Making a list of belongings to have when placed out of home;
 - (B) providing such list of belongings to such child's case manager;
 - (C) bringing such belongings when placed out of home; and
 - (D) if going on a visit or to a new placement, having belongings packed and transportable for the visit or move;

(5) have access to all appropriate school supplies, services, tutoring, extra-curricular, cultural and personal enrichment activities;

(6) attend school daily in accordance with K.S.A. 38-2218, and amendments thereto;

(7) receive a high school diploma if such child has earned the standard credits in accordance with K.S.A. 38-2285, and amendments thereto;

(8) be notified of all hearings held pursuant to the revised Kansas code for care of children, when age or developmentally appropriate;

(9) attend, in person or virtually, all court hearings held pursuant to the revised Kansas code for care of children, when age or developmentally appropriate;

(10) address the court regarding any proposed placement or placement change in accordance with K.S.A. 38-2262, and amendments thereto, when age or developmentally appropriate;

(11) have a guardian ad litem represent the best interests of the child, in accordance with K.S.A. 38-2205, and amendments thereto, and contact such child regularly;

(12) request an attorney who will represent the position of the child, if different than the determinations of the guardian ad litem, in accordance with K.S.A. 38-2205, and amendments thereto;

(13) have privacy to send and receive unopened mail and make and receive phone calls;

(14) have regular and private contact with and access to case managers, attorneys and advocates;

(15) access accurate and necessary information for such child's well-being from case managers, guardians and any person who is by law liable to maintain, care for or support the child;

(16) have as few changes in case managers as possible;

(17) contact a case manager's supervisor if there is a conflict that cannot be resolved between such child and such child's case manager;

(18) report a violation of this section without fear of punishment, interference, coercion or retaliation; and

(19) when transitioning out of the child welfare system:

(A) Be an active participant in developing a transition plan, as defined in K.S.A. 38-2202, and amendments thereto;

(B) have services and benefits explained;

(C) have a checking or savings account;

(D) learn to manage money, when age or developmentally appropriate;

(E) learn job skills that are age or developmentally appropriate; and

(F) be involved in life skills training and activities.

(c) Consistent with the policy of the state expressed in K.S.A. 38-2201 et seq., and amendments thereto, in order to ensure active participation of foster parents and kinship caregivers as an integral, indispensable and vital role in the state's efforts to care for children in the custody of the secretary, unless otherwise ordered by the court, such foster parents and kinship caregivers shall have the right to:

(1) Be treated by the Kansas department for children and families and other child welfare system stakeholders with dignity, respect and trust as a primary provider of care and support and a member of the professional team caring for a child in the custody of the secretary;

(2) not be discriminated in accordance with the Kansas act against discrimination, K.S.A. 44-1001, et seq., and amendments thereto, and federal law;

(3) continue with such foster parents' and kinship caregivers' own family values and beliefs with consideration given to the special needs of children who have experienced trauma and separation from their biological families, if the values and beliefs of the child and the biological family are respected and not infringed upon;

(4) make decisions concerning the child consistent with the policies, procedures and other directions of the Kansas department for children and families and within the limits of state and federal law;

(5) receive standardized preservice training by the Kansas department for children and families or the department's designee and

at appropriate intervals to meet mutually assessed needs of the child, such foster parents and kinship caregivers;

(6) receive timely financial reimbursement and be notified of any costs or expenses for which such foster parents and kinship caregivers may be eligible for reimbursement in accordance with K.S.A. 38-2216, and amendments thereto;

(7) receive information regarding services and contact the Kansas department for children and families or the department's designee during regular business hours and, in the event of an emergency, by telephone after business hours;

(8) receive any information on issues concerning the child and known to the Kansas department for children and families or the department's designee that is relevant to the care of the child or that may jeopardize the health and safety of the foster family, the kinship care placement or the child or alter the manner in which care and services should be administered prior to the placement of such child;

(9) discuss known information regarding the child prior to placement and be provided additional information from the Kansas department for children and families or the department's designee as such information becomes available under state and federal law;

(10) refuse placement of a child in such foster parents' and kinship caregivers' home or request the removal of a child from such foster parents' and kinship caregivers' home after providing reasonable notice;

(11) receive any available information through the Kansas department for children and families regarding the number of times a child has been placed and the reasons for such placements, and receive the names and phone numbers of any previous placements if such placements have authorized such a release by law;

(12) receive information from the Kansas department for children and families that is relevant to the care of a child when the child is placed with such foster parents and kinship caregivers;

(13) provide input and participate in the case planning process for the child and participate in and be informed about the planning of visitation between the child and the child's biological family, recognizing that visitation with the child's biological family is important, in accordance with K.S.A. 38-2255, and amendments thereto;

(14) communicate with the child's child welfare case management provider and share and obtain relevant and appropriate information regarding such child's placement;

(15) communicate with members of the child's professional team, including, but not limited to, such child's child welfare management provider, therapists, physicians and teachers as allowed by rules and regulations and state and federal law, for the purpose of participating in such child's case plan;

(16) be notified in advance of any court hearing or review where the case plan or permanency of the child is an issue, including periodic reviews held by the court, in accordance with the revised Kansas code for care of children;

(17) be considered as a placement option, if a child who was formerly placed with such parents or kinship caregivers is in the custody of the secretary again;

(18) continue contact and communication with a child subsequent to the child's placement from such foster parents' and kinship caregivers' home, subject to the approval of the child and the child's biological parents, if such biological parents' rights have not been terminated;

(19) direct questions to the Kansas department for children and families regarding information, concerns, policy violations and a corrective action plan relating to licensure as a family foster home;

(20) have the rights described in this section be given full consideration when the Kansas department for children and families develops and approves policies regarding placement and permanency;

(21) submit a report to the court pursuant to K.S.A. 38-2261, and

amendments thereto; and

(22) request a court hearing regarding a change of placement notice pursuant to K.S.A. 38-2258, and amendments thereto, if a child has been placed with the same foster parents for six months or longer.

(d) (1) The secretary shall provide written and oral notification to foster youth, foster parents and kinship caregivers of the rights created under this section and information for filing complaints.

(2) The secretary shall make a list of the rights created under this section digitally available on the secretary's website.

(3) Each child welfare management provider shall make available physical and digital copies of a list of the rights created under this section.

(e) This section shall not be construed to create a private right of action independent of the revised Kansas code for care of children, but may be enforced through equitable relief as a part of the corresponding case under the revised Kansas code for care of children.

(f) This section shall be a part of and supplemental to the revised Kansas code for care of children.

Sec. 3. K.S.A. 2022 Supp. 21-5605 is hereby amended to read as follows: 21-5605. (a) Abandonment of a child is leaving a child under the age of 16 years, in a place where such child may suffer because of neglect by the parent, guardian or other person to whom the care and custody of such child shall have been entrusted, when done with intent to abandon such child.

(b) Aggravated abandonment of a child is abandonment of a child, as defined in subsection (a), which results in great bodily harm.

(c) (1) Abandonment of a child is a severity level 8, person felony.

(2) Aggravated abandonment of a child is a severity level 5, person felony.

(d) No parent or other person having lawful custody of an infant shall be prosecuted for a violation of subsection (a), if such parent or person surrenders custody of an infant in the manner provided by K.S.A. 38-2282, and amendments thereto, and if such infant has not suffered *great* bodily harm.

(e) A person who violates the provisions of this section may also be prosecuted for, convicted of, and punished for any form of battery or homicide.

Sec. 4. K.S.A. 38-2203 is hereby amended to read as follows: 38-2203. (a) Proceedings concerning any child who may be a child in need of care shall be governed by this code, except in those instances when the court knows or has reason to know that an Indian child is involved in the proceeding, in which case, the Indian child welfare act of 1978, 25 U.S.C. § 1901 et seq., applies. The Indian child welfare act may apply to: The filing to initiate a child in need of care proceeding, K.S.A. 38-2234, and amendments thereto; ex parte custody orders, K.S.A. 38-2242, and amendments thereto; temporary custody hearing, K.S.A. 38-2243, and amendments thereto; adjudication, K.S.A. 38-2247, and amendments thereto; burden of proof, K.S.A. 38-2250, and amendments thereto; disposition, K.S.A. 38-2255, and amendments thereto; permanency hearings, K.S.A. 38-2264, and amendments thereto; termination of parental rights, K.S.A. 38-2267, 38-2268 and 38-2269, and amendments thereto; establishment of permanent custodianship, K.S.A. 38-2268 and 38-2272, and amendments thereto; *the newborn infant protection act, K.S.A. 38-2282, and amendments thereto; the Representative Gail Finney memorial foster care bill of rights, section 2, and amendments thereto;* the placement of a child in any foster, pre-adoptive and adoptive home and the placement of a child in a guardianship arrangement under article 30 of chapter 59 of the Kansas Statutes Annotated, and amendments thereto.

(b) Subject to the uniform child custody jurisdiction and enforcement act, K.S.A. 2022 Supp. 23-37,101 through 23-37,405, and amendments thereto, the district court shall have original jurisdiction of proceedings pursuant to this code.

(c) The court acquires jurisdiction over a child by the filing of a

petition pursuant to this code or upon issuance of an ex parte order pursuant to K.S.A. 38-2242, and amendments thereto. When the court acquires jurisdiction over a child in need of care, jurisdiction may continue until the child has: (1) Become 18 years of age, or until June 1 of the school year during which the child became 18 years of age if the child is still attending high school unless there is no court approved transition plan, in which event jurisdiction may continue until a transition plan is approved by the court or until the child reaches the age of 21; (2) been adopted; or (3) been discharged by the court. Any child 18 years of age or over may request, in writing to the court, that the jurisdiction of the court cease. The court shall give notice of the request to all parties and interested parties and 30 days after receipt of the request, jurisdiction will cease.

(d) When it is no longer appropriate for the court to exercise jurisdiction over a child, the court, upon its own motion or the motion of a party or interested party at a hearing or upon agreement of all parties or interested parties, shall enter an order discharging the child. Except upon request of the child pursuant to subsection (c), the court shall not enter an order discharging a child until June 1 of the school year during which the child becomes 18 years of age if the child is in an out-of-home placement, is still attending high school and has not completed the child's high school education.

(e) When a petition is filed under this code, a person who is alleged to be under 18 years of age shall be presumed to be under that age for the purposes of this code, unless the contrary is proved.

(f) A court's order issued in a proceeding pursuant to this code, shall take precedence over such orders in a civil custody case, a proceeding under article 31 of chapter 60 of the Kansas Statutes Annotated, and amendments thereto, protection from abuse act, or a comparable case in another jurisdiction, except as provided by K.S.A. 2022 Supp. 23-37,101 through 23-37,405, and amendments thereto, uniform child custody jurisdiction and enforcement act.

Sec. 5. K.S.A. 38-2202 is hereby amended to read as follows: 38-2202. As used in the revised Kansas code for care of children, unless the context otherwise indicates:

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

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

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

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

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

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

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

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

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

(6) is not attending school as required by K.S.A. 72-3421 or 72-3120, and amendments thereto;

(7) except in the case of a violation of K.S.A. 41-727, ~~K.S.A. 74-8810(j), K.S.A. 79-3321(m) or (n)~~, or K.S.A. 2022 Supp. 21-6301(a) (14), and amendments thereto, or, except as provided in paragraph (12), does an act which, when committed by a person under 18 years of age, is prohibited by state law, city ordinance or county resolution, but

which is not prohibited when done by an adult;

(8) while less than 10 years of age, commits any act that if done by an adult would constitute the commission of a felony or misdemeanor as defined by K.S.A. 2022 Supp. 21-5102, and amendments thereto;

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

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

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

(12) while less than 10 years of age commits the offense defined in K.S.A. 2022 Supp. 21-6301(a)(14), and amendments thereto;

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

(14) has been subjected to an act that would constitute human trafficking or aggravated human trafficking, as defined by K.S.A. 2022 Supp. 21-5426, and amendments thereto, or commercial sexual exploitation of a child, as defined by K.S.A. 2022 Supp. 21-6422, and amendments thereto, or has committed an act which, if committed by an adult, would constitute selling sexual relations, as defined by K.S.A. 2022 Supp. 21-6419, and amendments thereto.

(e) *"Child abuse medical resource center" means a medical institution affiliated with an accredited children's hospital or a recognized institution of higher education that has an accredited medical school program with board-certified child abuse pediatricians who provide training, support, mentoring and peer review to CARE providers on CARE exams.*

(f) *"Child abuse review and evaluation exam" or "CARE exam" means a forensic medical evaluation of a child alleged to be a victim of abuse or neglect conducted by a CARE provider.*

(g) *"Child abuse review and evaluation network" or "CARE network" means a network of CARE providers, child abuse medical resource centers and any medical provider associated with a child advocacy center that has the ability to conduct a CARE exam that collaborate to improve services provided to a child alleged to be a victim of abuse or neglect.*

(h) *"Child abuse review and evaluation provider" or "CARE provider" means a person licensed to practice medicine and surgery, advanced practice registered nurse or licensed physician assistant who performs CARE exams of and provides medical diagnosis and treatment to a child alleged to be a victim of abuse or neglect and who receives:*

(1) Kansas-based initial intensive training regarding child maltreatment from the CARE network;

(2) continuous trainings on child maltreatment from the CARE network; and

(3) peer review and new provider mentoring regarding medical evaluations from a child abuse medical resource center.

(i) *"Child abuse review and evaluation referral" or "CARE referral" means a brief written review of allegations of physical abuse, emotional abuse, medical neglect or physical neglect submitted by the secretary or law enforcement agency to a child abuse medical resource center for a recommendation of such child's need for medical care that may include a CARE exam.*

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

(k) *"Civil custody case" includes any case filed under chapter*

23 of the Kansas Statutes Annotated, and amendments thereto, the Kansas family law code, article 11 of chapter 38 of the Kansas Statutes Annotated, and amendments thereto, determination of parentage, article 21 of chapter 59 of the Kansas Statutes Annotated, and amendments thereto, adoption and relinquishment act, or article 30 of chapter 59 of the Kansas Statutes Annotated, and amendments thereto, guardians and conservators.

~~(g)~~(l) "Court-appointed special advocate" means a responsible adult other than an attorney guardian ad litem who is appointed by the court to represent the best interests of a child, as provided in K.S.A. 38-2206, and amendments thereto, in a proceeding pursuant to this code.

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

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

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

~~(k)~~(p) "Educator" means any administrator, teacher or other professional or paraprofessional employee of an educational institution who has exposure to a pupil specified in K.S.A. 72-6143(a), and amendments thereto.

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

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

~~(n)~~(s) "Jail" means:

(1) An adult jail or lockup; or

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

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

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

~~(q)~~(v) "Kinship care placement" means the placement of a child in the home of an adult with whom the child or the child's parent already has close emotional ties.

(w) "*Kinship caregiver*" means an adult who the secretary has selected for placement for a child in need of care with whom the child or the child's parent already has close emotional ties.

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

~~(s)~~(y) "Multidisciplinary team" means a group of persons, appointed by the court under K.S.A. 38-2228, and amendments thereto, that has knowledge of the circumstances of a child in need of care.

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

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

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

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

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

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

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

~~(x)~~(dd) "Permanent custodian" means a judicially approved permanent guardian of a child pursuant to K.S.A. 38-2272, and amendments thereto.

~~(y)~~(ee) "Physical, mental or emotional abuse" means the infliction of physical, mental or emotional harm or the causing of a deterioration of a child and may include, but shall not be limited to, maltreatment or exploiting a child to the extent that the child's health or emotional well-being is endangered.

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

~~(aa)~~(gg) "Qualified residential treatment program" means a program designated by the secretary for children and families as a qualified residential treatment program pursuant to federal law.

~~(bb)~~(hh) "Reasonable and prudent parenting standard" means the standard characterized by careful and sensible parental decisions that maintain the health, safety and best interests of a child while at the same time encouraging the emotional and developmental growth of the child, that a caregiver shall use when determining whether to allow a child in foster care under the responsibility of the state to participate in extracurricular, enrichment, cultural and social activities.

~~(cc)~~(ii) "Relative" means a person related by blood, marriage or adoption.

~~(dd)~~(jj) "Runaway" means a child who is willfully and voluntarily absent from the child's home without the consent of the child's parent or other custodian.

~~(ee)~~(kk) "Secretary" means the secretary for children and families or the secretary's designee.

~~(ff)~~(ll) "Secure facility" means a facility, other than a staff secure facility or juvenile detention facility, that is operated or structured so as to ensure that all entrances and exits from the facility are under the exclusive control of the staff of the facility, whether or not the person

being detained has freedom of movement within the perimeters of the facility, or that relies on locked rooms and buildings, fences or physical restraint in order to control behavior of its residents. No secure facility shall be in a city or county jail.

~~(gg)~~(mm) "Sexual abuse" means any contact or interaction with a child in which the child is being used for the sexual stimulation of the perpetrator, the child or another person. Sexual abuse shall include, but is not limited to, allowing, permitting or encouraging a child to:

(1) Be photographed, filmed or depicted in pornographic material; or

(2) be subjected to aggravated human trafficking, as defined in K.S.A. 2022 Supp. 21-5426(b), and amendments thereto, if committed in whole or in part for the purpose of the sexual gratification of the offender or another, or be subjected to an act that would constitute conduct proscribed by article 55 of chapter 21 of the Kansas Statutes Annotated or K.S.A. 2022 Supp. 21-6419 or 21-6422, and amendments thereto.

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

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

~~(jj)~~(pp) "Transition plan" means, when used in relation to a youth in the custody of the secretary, an individualized strategy for the provision of medical, mental health, education, employment and housing supports as needed for the adult and, if applicable, for any minor child of the adult, to live independently and specifically provides for the supports and any services for which an adult with a disability is eligible including, but not limited to, funding for home and community based services waivers.

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

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

(b) *Joint investigations.* When a report of child abuse or neglect indicates: (1) That there is serious physical harm to, serious deterioration of or sexual abuse of the child; and (2) that action may be

required to protect the child, the investigation shall be conducted as a joint effort between the secretary and the appropriate law enforcement agency or agencies, with a free exchange of information between them pursuant to K.S.A. 38-2210, and amendments thereto. If a statement of a suspect is obtained by either agency, a copy of the statement shall be provided to the other.

(c) *Investigation of certain cases.* Suspected child abuse or neglect which occurs in an institution operated by the Kansas department of corrections shall be investigated by the attorney general or secretary of corrections. Any suspected child abuse or neglect in an institution operated by the Kansas department for aging and disability services, or by persons employed by the Kansas department for aging and disability services or the Kansas department for children and families, or of children of persons employed by either department, shall be investigated by the appropriate law enforcement agency.

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

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

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

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

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

(h) *Visual observation required.* As part of any investigation conducted pursuant to this section, the secretary, ~~or the secretary's designee~~, or the law enforcement agency, or such agency's designee, that is conducting the investigation shall visually observe the child who is the alleged victim of abuse or neglect. In the case of a joint investigation conducted pursuant to subsection (b), the secretary and the investigating law enforcement agency, or the designees of the secretary and such agency, shall both visually observe the child who is the alleged victim of abuse or neglect. All investigation reports shall include the date, time and location of any visual observation of a child that is required by this subsection.

(i) *Child abuse review and evaluation referrals.* (1) Upon investigation by law enforcement or assignment by the secretary of any investigation of physical abuse or physical neglect conducted pursuant to this section that concerns a child five years of age or younger, the secretary, the law enforcement agency or the agency's designee shall make a CARE referral for such child.

(2) In any other investigation of physical abuse, emotional abuse, medical neglect or physical neglect conducted pursuant to this section, the secretary, the law enforcement agency or the agency's designee may make a CARE referral for such child.

Sec. 7. K.S.A. 38-2258 is hereby amended to read as follows: 38-2258. (a) Except as provided in K.S.A. 38-2255(d)(2) and 38-2259, and amendments thereto, if a child has been in the same foster home, *kinship care placement* or shelter facility for six months or longer, or has been placed by the secretary in the home of a parent or relative, the secretary shall give written notice of any plan to move the child to a different placement unless the move is to the selected preadoptive family for the purpose of facilitating adoption. The notice shall be given to: (1) The court having jurisdiction over the child; (2) the petitioner; (3) the attorney for the parents, if any; (4) each parent whose address is available; (5) the foster parent or custodian from whose home or shelter facility it is proposed to remove the child; (6) the child, if 12 or more years of age; (7) the child's guardian ad litem; (8) any other party or interested party; and (9) the child's court appointed special advocate.

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

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

(d) When, after the notice set out above, a child in the custody of the secretary is removed from the home of a parent after having been placed in the home of a parent for a period of six months or longer, the secretary shall request a finding that:

(1) (A) The child is likely to sustain harm if not immediately removed from the home;

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

(C) immediate placement of the child is in the best interest of the child; and

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

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

Sec. 8. K.S.A. 38-2261 is hereby amended to read as follows: 38-2261. The secretary shall notify the foster parent or ~~parents~~ *kinship caregivers* that the foster parent or ~~parents~~ *kinship caregivers* have a right to submit a report. Copies of the report shall be available to the parties and interested parties. The report made by foster parents shall be on a form created and provided by the Kansas department for children and families.

Sec. 9. K.S.A. 38-2282 is hereby amended to read as follows: 38-2282. (a) This section shall be known and may be cited as the newborn

infant protection act. The purpose of this section is to protect newborn children from injury and death caused by abandonment by a parent; and to provide safe and secure alternatives to such abandonment. *This section shall not abridge the rights or obligations created by the Indian child welfare act of 1978, 25 U.S.C. § 1901 et seq.*

(b) As used in this section:

(1) "Newborn safety device" means a container designed to safely accept delivery of an infant and that is:

(A) Voluntarily installed in a facility described in subsection (c)(1)(A) that is staffed 24 hours per day by an employee of such facility or has a dual alarm system that will dispatch first responders when all employees of the facility are unavailable;

(B) located on a structural wall in an area that is conspicuous and visible to employees of the facility described in subsection (c)(1)(A);

(C) equipped with an automatic lock that would restrict access to the device from the outside of the facility described in subsection (c)(1)(A) when an infant is placed inside the device;

(D) equipped with a temperature control; and

(E) equipped with an alarm system described in subsection (c)(3) that is triggered by an infant being placed inside the device;

(2) "non-relinquishing parent" means the biological parent of an infant who does not ~~leave~~ ~~surrender~~ the infant ~~with any person listed in subsection (e)~~ in accordance with this section; and

~~(2)~~(3) "relinquishing parent" means the biological parent or person having legal custody of an infant who ~~leaves~~ ~~surrenders~~ the infant ~~with any person listed in subsection (e)~~ in accordance with this section.

(c) (1) A person purporting to be an infant's parent or other person having lawful custody of an infant who is *not more than 60 days old or younger* and who has not suffered *great* bodily harm *as determined by a person licensed to practice medicine and surgery, advanced practice registered nurse or licensed physician assistant* may surrender physical custody of the infant to ~~any~~ *either*:

(A) An employee who is on duty at a police station, sheriff's office, law enforcement center, fire station, city or county health department or medical care facility as defined by K.S.A. 65-425, and amendments thereto. Such employee shall, without a court order, take physical custody of an infant surrendered pursuant to this section; or

(B) a newborn safety device installed at a facility described in subparagraph (A). An employee of such facility shall, without a court order, take physical custody of an infant surrendered pursuant to this section.

(2) A relinquishing parent voluntarily surrendering an infant under this subsection shall not be required to reveal personally identifiable information, but may be offered the opportunity to provide information concerning the infant's familial or medical history *or information described in subsection (k)*.

(3) A facility described in this subsection that installs a newborn safety device shall install a dual alarm system connected to the physical location of the device. Such dual alarm system shall be tested at least once per week and visually checked at least twice per day to ensure such alarm is in working order.

(d) ~~Any~~An employee of a facility described in subsection ~~(e)~~ (c) (1)(A) to whom an infant is delivered pursuant to this section shall not reveal the name or other personally identifiable information of the person who delivered the infant unless there is a reasonable suspicion that the infant has ~~been abused or neglected~~ *suffered great bodily harm or such information is required pursuant to subsection (k)*, and such facility and its employees shall be immune from administrative, civil or criminal liability for any action taken pursuant to this subsection. Such immunity shall not extend to any acts or omissions, including negligent or intentional acts or omissions, occurring after the acceptance of the infant.

(e) If an infant is delivered pursuant to this section to ~~any~~ a facility described in subsection ~~(e)~~ (c)(1)(A) that is not a medical care facility,

the employee of such facility who takes physical custody of the infant shall arrange for the immediate transportation of the infant to the nearest medical care facility as defined by K.S.A. 65-425, and amendments thereto. The medical care facility, its employees, agents and medical staff shall perform treatment in accordance with the prevailing standard of care as necessary to protect the physical health and safety of the infant and shall be immune from administrative, civil and criminal liability for treatment performed consistent with such standard.

(f) As soon as possible after an employee of ~~any~~ a facility described in subsection ~~(e)~~ (c)(1)(A) takes physical custody of an infant without a court order pursuant to this section, such ~~person~~ employee shall notify a local law enforcement agency that the ~~person~~ employee has taken physical custody of an infant pursuant to this section. Upon receipt of such notice a law enforcement officer from such law enforcement agency shall take custody of the infant as an abandoned infant. The law enforcement agency shall *report the surrender of the infant to the secretary and* deliver the infant to a facility or person designated by the secretary pursuant to K.S.A. 38-2232, and amendments thereto.

(g) Any person, city or county or agency thereof or medical care facility taking physical custody of an infant surrendered pursuant to this section shall perform any act necessary to protect the physical health or safety of the infant, and shall be immune from liability for any injury to the infant that may result therefrom.

(h) (1) A relinquishing parent shall be immune from civil or criminal liability ~~for action taken pursuant to this section only~~ if:

(A) The relinquishing parent voluntarily delivered the infant safely to *either*:

(i) The physical custody of an employee at a facility described in subsection ~~(e)~~ (c)(1)(A); or

(ii) *a newborn safety device installed at a facility described in subsection (c)(1)(B); and*

(B) the infant was ~~no~~ not more than 60 days old ~~when delivered by the relinquishing parent to the physical custody of an employee at a facility described in subsection (e); and~~

~~(C) the infant was not abused or neglected by the relinquishing parent prior to such delivery and has not suffered great bodily harm as determined by a person licensed to practice medicine and surgery, advanced practice registered nurse or licensed physician assistant.~~

(2) The relinquishing parent's voluntary delivery of an infant in accordance with this section shall constitute the parent's implied consent to the adoption of such infant and a voluntary relinquishment of such parent's parental rights.

(i) (1) In any termination of parental rights proceeding initiated after the relinquishment of an infant pursuant to this section, the state shall publish notice pursuant to chapter 60 of the Kansas Statutes Annotated, and amendments thereto, that an infant has been relinquished, including the sex of the infant and the date and location of such relinquishment. Within 30 days after publication of such notice, a non-relinquishing parent seeking to establish parental rights shall notify the court where the termination of parental rights proceeding is filed and state such parent's intentions regarding the infant. The court shall initiate proceedings to establish parentage if no person notifies the court within 30 days. *When such person is seeking to establish parental rights, the court shall require the person, at the person's expense, to submit to a genetic test to verify that the person is the biological parent of the child.* There shall be an examination of the putative father registry to determine whether attempts have previously been made to preserve parental rights to the infant. If such attempts have been made, the state shall make reasonable efforts to provide notice of the abandonment of the infant to such putative father.

(2) If a relinquishing parent of an infant relinquishes custody of the infant in accordance with this section, to preserve the parental rights

of the non-relinquishing parent, the non-relinquishing parent shall take the steps necessary to establish parentage within 30 days after the published notice or specific notice provided in paragraph (1).

(3) If a non-relinquishing parent fails to take the steps necessary to establish parentage within the 30-day period specified in paragraph (2), the non-relinquishing parent may have all of such parent's rights terminated with respect to the child.

(4) If a non-relinquishing parent inquires at a facility described in subsection ~~(e)~~ (c)(1)(A) regarding an infant whose custody was relinquished pursuant to this section, such facility shall refer the non-relinquishing parent to the Kansas department for children and families and the court exercising jurisdiction over the child.

(j) Upon request, all medical records of the infant shall be made available to the Kansas department for children and families and given to the person awarded custody of such infant. The medical facility providing such records shall be immune from liability for such ~~release of records~~ release.

(k) *An employee of a facility described in subsection (c)(1)(A) shall ask the person surrendering an infant whether such infant or either biological parent is a member of or eligible for membership in a federally recognized Indian tribe and the identity of any such tribe or tribes. Any facility maintaining a newborn safety device shall provide the means for the person surrendering an infant to indicate whether such infant or either biological parent is a member of or eligible for membership in a federally recognized tribe or tribes. An employee of a facility taking custody of an infant pursuant to section (c)(1) shall provide to the secretary all information received pursuant to this subsection. The secretary shall provide such information to the court with jurisdiction over the infant.*

(l) (1) *A facility described in subsection (c)(1)(A) that receives an infant surrendered under this section shall make available, if possible, information to the relinquishing parent, but such parent shall not be required to accept such information.*

(2) *Such information to be made available shall include:*

(A) *A notice stating that 60 days after the surrender of the infant to the facility, the secretary shall commence proceedings for termination of parental rights and placement of the infant for adoption;*

(B) *a list of providers that provide counseling services on grief, pregnancy and adoption or other placement or care regarding an infant;*

(C) *a copy of this statute, the rights of birth parents, a questionnaire that a birth parent may answer questions about the medical or background information of the child and any information required by subsection (k); and*

(D) *a brochure on postpartum health.*

(3) *The form and manner of the information under this subsection shall be prescribed by the secretary. The secretary shall maintain the questionnaire under paragraph (2)(C) on a public website.*

(m) *Except as otherwise provided by law, the following individuals shall not disclose any information concerning the relinquishment of the infant and individuals involved in the relinquishment:*

(1) *Persons licensed to practice medicine and surgery, advanced practice registered nurse or licensed physician assistant;*

(2) *employees of a facility described in subsection (c)(1)(A);*

(3) *operators of a newborn safety device; or*

(4) *persons employed or involved with any location where an infant may be surrendered under this section.*

Sec. 10. K.S.A. 38-2202, 38-2203, 38-2226, 38-2258, 38-2261 and 38-2282 and K.S.A. 2022 Supp. 21-5605 are hereby repealed.

Sec. 11. This act shall take effect and be in force from and after its publication in the Kansas register.

I hereby certify that the above BILL originated in the HOUSE, and was adopted by that body

HOUSE adopted
Conference Committee Report _____

Speaker of the House.

Chief Clerk of the House.

Passed the SENATE
as amended _____

SENATE adopted
Conference Committee Report _____

President of the Senate.

Secretary of the Senate.

APPROVED _____

Governor.