

## HOUSE BILL No. 2322

By Committee on Education

2-7

1 AN ACT concerning education; relating to exceptional children; revising  
2 the definition of "children with disabilities" to replace emotional  
3 disturbance with emotional disability; amending K.S.A. 2022 Supp. 72-  
4 3404 and 75-5399 and repealing the existing sections.

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

7 Section 1. K.S.A. 2022 Supp. 72-3404 is hereby amended to read as  
8 follows: 72-3404. As used in this act:

9 (a) "School district" means any public school district.  
10 (b) "Board" means the board of education of any school district.  
11 (c) "State board" means the state board of education.  
12 (d) "Department" means the state department of education.  
13 (e) "State institution" means any institution under the jurisdiction of a  
14 state agency.

15 (f) "State agency" means the Kansas department for children and  
16 families, the Kansas department for aging and disability services, the  
17 department of corrections and the juvenile justice authority.

18 (g) "Exceptional children" means persons who are children with  
19 disabilities or gifted children and are school age, to be determined in  
20 accordance with rules and regulations adopted by the state board, whose  
21 age may differ from the ages of children required to attend school under  
22 the provisions of K.S.A. 72-3120, and amendments thereto.

23 (h) "Gifted children" means exceptional children who are determined  
24 to be within the gifted category of exceptionality as such category is  
25 defined by the state board.

26 (i) "Special education" means specially designed instruction provided  
27 at no cost to parents to meet the unique needs of an exceptional child,  
28 including:

29 (1) Instruction conducted in the classroom, in the home, in hospitals  
30 and institutions, and in other settings; and

31 (2) instruction in physical education.

32 (j) "Special teacher" means a person, employed by or under contract  
33 with a school district or a state institution to provide special education or  
34 related services, who is qualified to:

35 (1) Provide special education or related services to exceptional  
36 children as determined pursuant to standards established by the state

1 board; or

2 (2) assist in the provision of special education or related services to  
3 exceptional children as determined pursuant to standards established by  
4 the state board.

5 (k) "State plan" means the state plan for special education and related  
6 services authorized by this act.

7 (l) "Agency" means boards and the state agencies.

8 (m) "Parent" means:

9 (1) A natural parent;

10 (2) an adoptive parent;

11 (3) a person acting as parent;

12 (4) a legal guardian;

13 (5) an education advocate; or

14 (6) a foster parent, if the foster parent has been appointed the  
15 education advocate of an exceptional child.

16 (n) "Person acting as parent" means a person such as a grandparent,  
17 stepparent or other relative with whom a child lives or a person other than  
18 a parent who is legally responsible for the welfare of a child.

19 (o) "Education advocate" means a person appointed by the state board  
20 in accordance with the provisions of K.S.A. 38-2218, and amendments  
21 thereto. A person appointed as an education advocate for a child shall not  
22 be:

23 (1) An employee of the agency who is required by law to provide  
24 special education or related services for the child;

25 (2) an employee of the state board, the department, or any agency that  
26 is directly involved in providing educational services for the child; or

27 (3) any person having a professional or personal interest that would  
28 conflict with the interests of the child.

29 (p) "Free appropriate public education" means special education and  
30 related services that:

31 (1) Are provided at public expense, under public supervision and  
32 direction, and without charge;

33 (2) meet the standards of the state board;

34 (3) include an appropriate preschool, elementary or secondary school  
35 education; and

36 (4) are provided in conformity with an individualized education  
37 program.

38 (q) "Federal law" means the individuals with disabilities education  
39 act, as amended.

40 (r) "Individualized education program" or "IEP" means a written  
41 statement for each exceptional child that is developed, reviewed, and  
42 revised in accordance with the provisions of K.S.A. 72-3429, and  
43 amendments thereto.

1 (s) (1) "Related services" means transportation, and such  
2 developmental, corrective, and other supportive services, including  
3 speech-language pathology and audiology services, interpreting services,  
4 psychological services, physical and occupational therapy, recreation,  
5 including therapeutic recreation, social work services, school nurse  
6 services designed to enable a child with a disability to receive a free  
7 appropriate public education as described in the child's IEP, counseling  
8 services, including rehabilitation counseling, orientation and mobility  
9 services, and medical services, except that such medical services shall be  
10 for diagnostic and evaluation purposes only, as may be required to assist  
11 an exceptional child to benefit from special education, and includes the  
12 early identification and assessment of disabling conditions in children.

13 (2) "Related services" ~~shall~~ *does* not mean any medical device that is  
14 surgically implanted or the replacement of any such device.

15 (t) "Supplementary aids and services" means aids, services, and other  
16 supports that are provided in regular education classes or other education-  
17 related settings to enable children with disabilities to be educated with  
18 nondisabled children to the maximum extent appropriate.

19 (u) "Individualized education program team" or "IEP team" means a  
20 group of individuals composed of:

21 (1) The parents of a child;

22 (2) at least one regular education teacher of the child if the child is, or  
23 may be, participating in the regular education environment;

24 (3) at least one special education teacher or, where appropriate, at  
25 least one special education provider of the child;

26 (4) a representative of the agency directly involved in providing  
27 educational services for the child who is:

28 (A) Qualified to provide or supervise the provision of specially  
29 designed instruction to meet the unique needs of exceptional children;

30 (B) knowledgeable about the general curriculum; and

31 (C) knowledgeable about the availability of resources of the agency;

32 (5) an individual who can interpret the instructional implications of  
33 evaluation results;

34 (6) at the discretion of the parent or the agency, other individuals who  
35 have knowledge or special expertise regarding the child, including related  
36 services personnel as appropriate; and

37 (7) whenever appropriate, the child.

38 (v) "Evaluation" means a multisourced and multidisciplinary  
39 examination, conducted in accordance with the provisions of K.S.A. 72-  
40 3428, and amendments thereto, to determine whether a child is an  
41 exceptional child.

42 (w) "Independent educational evaluation" means an examination that  
43 is obtained by the parent of an exceptional child and performed by an

1 individual or group of individuals who meet state and local standards to  
2 conduct such an examination.

3 (x) "Elementary school" means any nonprofit institutional day or  
4 residential school that offers instruction in any or all of the grades  
5 kindergarten through nine.

6 (y) "Secondary school" means any nonprofit institutional day or  
7 residential school that offers instruction in any or all of the grades nine  
8 through 12.

9 (z) "Children with disabilities" means children who:

10 (1) Have an intellectual disability, hearing loss including deafness,  
11 speech or language disorders, visual impairments including blindness,  
12 emotional—~~disturbance~~ *disability*, orthopedic impairments, autism,  
13 traumatic brain injury, other health impairments, or specific learning  
14 disabilities and who, by reason thereof, need special education and related  
15 services; and

16 (2) are experiencing one or more developmental delays and, by  
17 reason thereof, need special education and related services if such children  
18 are ages three through nine.

19 (aa) "Substantial change in placement" means the movement of an  
20 exceptional child, for more than 25% of the child's school day, from a less  
21 restrictive environment to a more restrictive environment or from a more  
22 restrictive environment to a less restrictive environment.

23 (bb) "Material change in services" means an increase or decrease of  
24 25% or more of the duration or frequency of a special education service, a  
25 related service or a supplementary aid or a service specified on the IEP of  
26 an exceptional child.

27 (cc) "Developmental delay" means such a deviation from average  
28 development in one or more of the following developmental areas, as  
29 determined by appropriate diagnostic instruments and procedures, as  
30 indicates that special education and related services are required:

31 (1) Physical;

32 (2) cognitive;

33 (3) adaptive behavior;

34 (4) communication; or

35 (5) social or emotional development.

36 (dd) "Homeless children" means "homeless children and youths" as  
37 defined in the federal McKinney-Vento homeless assistance act, 42 U.S.C.  
38 § 11434a.

39 (ee) "Limited English proficient" means an individual who meets the  
40 qualifications specified in section 9101 of the federal elementary and  
41 secondary education act of 1965, as amended.

42 (ff) "*Emotional disability*" means the same as the term "*emotional*  
43 *disturbance*" is used in public law 101-476, the individuals with

1 *disabilities education act.*

2 Sec. 2. K.S.A. 2022 Supp. 75-5399 is hereby amended to read as  
3 follows: 75-5399.As used in this act:

4 (a) "Individuals with disabilities" means individuals with intellectual  
5 disability, hearing loss including deafness, speech or language disorders,  
6 visual impairments including blindness, serious emotional—~~disturbance~~  
7 *disability*, orthopedic impairments, autism, traumatic brain injury, other  
8 health impairments or specific learning disabilities.

9 (b) "Transition services" means a coordinated set of activities for a  
10 student, designed within an outcome-oriented process,—~~which that~~  
11 promotes movement from school to post-school activities, including post-  
12 secondary education, vocational training, integrated employment,  
13 including supported employment, continuing and adult education, adult  
14 services, independent living or community participation. The coordinated  
15 set of activities shall be based upon the individual student's needs, taking  
16 into account the student's preferences and interests, and shall include  
17 instruction, community experiences, the development of employment and  
18 other post-school adult living objectives and, when appropriate,  
19 acquisition of daily living skills and functional vocational evaluation.

20 (c) "Transition planning services" means rehabilitation counseling,  
21 information and referral to community services for students age 16 and  
22 older in secondary special education programs.

23 (d) "Local education authority" means the special education interlocal  
24 or cooperative or school district responsible for the local special education  
25 program.

26 (e) "Special education program" means services that are provided  
27 pursuant to public law 94-142, the education of all handicapped children's  
28 act, as implemented in Kansas through K.S.A. 72-3403 et seq., and  
29 amendments thereto, and public law 101-476, the individuals with  
30 disabilities education act.

31 (f) "Secretary" means the secretary for children and families or the  
32 designee of the secretary.

33 (g) "Local transition council" means a representative group of  
34 persons with disabilities and their families, school personnel, adult service  
35 agency personnel and members of the general public, such as employers,  
36 that develops an annual plan to improve secondary special education,  
37 transition and transition planning services.

38 (h) "*Emotional disability*" means the same as the term "*emotional*  
39 *disturbance*" is used in public law 101-476, the individuals with  
40 disabilities education act.

41 Sec. 3. K.S.A. 2022 Supp. 72-3404 and 75-5399 are hereby repealed.

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