

House Substitute for Substitute for SENATE BILL No. 232

By Committee on Judiciary

3-25

1 AN ACT concerning children and minors; relating to children in need of
2 care; directing the secretary for children and families to consider foster
3 parents as prospective adoptive parents under certain circumstances;
4 requiring the secretary to report on certain data on adoptions; providing
5 for retroactivity; making orders granting custody for adoption subject to
6 the federal Indian child welfare act; amending K.S.A. 38-2270 and
7 K.S.A. 2023 Supp. 38-2203 and repealing the existing sections; also
8 repealing K.S.A. 2023 Supp. 38-2203a.
9

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

11 Section 1. K.S.A. 2023 Supp. 38-2203 is hereby amended to read as
12 follows: 38-2203. (a) Proceedings concerning any child who may be a
13 child in need of care shall be governed by this code, except in those
14 instances when the court knows or has reason to know that an Indian child
15 is involved in the proceeding, in which case, the Indian child welfare act of
16 1978, 25 U.S.C. § 1901 et seq., applies. The Indian child welfare act may
17 apply to: The filing to initiate a child in need of care proceeding, K.S.A.
18 38-2234, and amendments thereto; ex parte custody orders, K.S.A. 38-
19 2242, and amendments thereto; temporary custody hearing, K.S.A. 38-
20 2243, and amendments thereto; adjudication, K.S.A. 38-2247, and
21 amendments thereto; burden of proof, K.S.A. 38-2250, and amendments
22 thereto; disposition, K.S.A. 38-2255, and amendments thereto;
23 permanency hearings, K.S.A. 38-2264, and amendments thereto;
24 termination of parental rights, K.S.A. 38-2267, 38-2268 and 38-2269, and
25 amendments thereto; establishment of permanent custodianship, K.S.A.
26 38-2268 and 38-2272, and amendments thereto; *orders granting custody*
27 *for adoption, K.S.A. 38-2270, and amendments thereto*; the newborn infant
28 protection act, K.S.A. 38-2282, and amendments thereto; the
29 Representative Gail Finney memorial foster care bill of rights, K.S.A.
30 2023 Supp. 38-2201a, and amendments thereto; the placement of a child in
31 any foster, pre-adoptive and adoptive home and the placement of a child in
32 a guardianship arrangement under article 30 of chapter 59 of the Kansas
33 Statutes Annotated, and amendments thereto.

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

1 this code.

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

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

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

27 (f) A court's order issued in a proceeding pursuant to this code, shall
28 take precedence over such orders in a civil custody case, a proceeding
29 under article 31 of chapter 60 of the Kansas Statutes Annotated, and
30 amendments thereto, protection from abuse act, or a comparable case in
31 another jurisdiction, except as provided by K.S.A. 23-37,101 through 23-
32 37,405, and amendments thereto, uniform child custody jurisdiction and
33 enforcement act.

34 (g) *If a child is eligible to receive services from the Kansas*
35 *department for children and families, the department of corrections or the*
36 *judicial branch, such agencies shall collaborate to provide such services.*
37 *Nothing in this subsection shall preclude the child from accessing services*
38 *provided by the Kansas department for children and families, the*
39 *department of corrections, the judicial branch or any other state agency if*
40 *the child is otherwise eligible for the services.*

41 Sec. 2. K.S.A. 38-2270 is hereby amended to read as follows: 38-
42 2270. (a) When parental rights have been terminated and it appears that
43 adoption is a viable alternative, the court shall enter one of the following

1 orders:

2 (1) An order granting custody of the child, for adoption proceedings,
3 to the secretary or a corporation organized under the laws of the state of
4 Kansas authorized to care for and surrender children for adoption as
5 provided in K.S.A. 38-112 et seq., and amendments thereto. ~~The person,~~
6 secretary or corporation shall have authority to place the child in a family
7 home; and give consent for the legal adoption of the child which shall be
8 the only consent required to authorize the entry of an order or decree of
9 adoption. *When deciding who will adopt the child, the secretary or*
10 *corporation shall be guided by the best interests of the child.*

11 (2) An order granting custody of the child to proposed adoptive
12 parents and consenting to the adoption of the child by the proposed
13 adoptive parents. *The court shall be guided by the best interests of the*
14 *child. Any prior custody order, including, but not limited to, custody of the*
15 *secretary or corporation, shall cease upon the court granting custody of*
16 *the child to the proposed adoptive parents under this subsection.*

17 ~~(b) In making an order under subsection (a), the court shall give~~
18 ~~preference, to the extent that the court finds it is in the best interests of the~~
19 ~~child, first to granting such custody for adoption to a relative of the child~~
20 ~~and second to granting such custody to a person with whom the child has~~
21 ~~close emotional ties.~~
22 *(1) When a child is placed in the custody of the*
23 *secretary for purposes of adoption under subsection (a)(1) or when a*
24 *parent has relinquished their rights to the secretary for adoption purposes,*
25 *the secretary shall give preference, subject to the best interests of the*
26 *child, according to paragraphs (2) and (3).*

27 *(2) If a child has been in the custody of the secretary for less than one*
28 *cumulative year, the secretary shall give preference, first, to granting such*
29 *custody for adoption to a relative of the child and second, to granting such*
30 *custody to a person with whom the child has close and healthy*
31 *attachments.*

32 *(3) If a child has been in the custody of the secretary for one*
33 *cumulative year or more, the secretary shall give preference to a*
34 *placement that maintains the child's close and healthy attachments. The*
35 *secretary shall consider the foster parent as a prospective adoptive parent*
36 *when:*

37 *(A) The child has lived more than half of the child's lifetime with the*
38 *foster parent;*

39 *(B) the child has lived more than two years with the foster parent; or*

40 *(C) the secretary otherwise determines it is in the best interests of the*
41 *child.*

42 *(c) If a foster parent considered by the secretary under subsection (b)*
43 *(3)(A) or (b)(3)(B) is not selected by the secretary, the foster parent may*
request direct placement of the child by the court under subsection (a)(2)

1 *and may appeal that decision to the court of appeals.*

2 *(d) To implement the provisions of this section, the secretary shall:*

3 *(1) Develop and enforce adoption selection policies that comply with*
4 *subsection (b) and ensure caregiver and sibling attachments are*
5 *appropriately considered;*

6 *(2) review policies and update to reduce time to adoption*
7 *permanency;*

8 *(3) apply adoption selection policies consistently;*

9 *(4) develop and provide training for contractors and employees;*

10 *(5) collect data regarding best interest staffing conducted under this*
11 *section, including, but not limited to, data on the number of:*

12 *(A) Prospective adoptive parents who request the secretary to*
13 *reconsider an initial adoptive placement decision;*

14 *(B) initial adoptive placement decisions that the secretary overturns*
15 *after reconsidering the initial adoptive placement decision; and*

16 *(C) prospective parents who request the court to review the*
17 *secretary's adoptive placement decision; and*

18 *(6) on or before the first day of the regular legislative session of*
19 *2024, and every year thereafter, prepare and submit a report to the*
20 *legislature on compliance with this subsection.*

21 *(e) ~~Discharge upon adoption.~~—When an adoption decree has been filed*
22 *with the court in the child in need of care case, the secretary's custody shall*
23 *cease, the court's jurisdiction over the child shall cease and the court shall*
24 *enter an order to that effect.*

25 *(f) The amendments made to this section by this act shall be*
26 *construed and applied retroactively to all proceedings pending before a*
27 *court on the effective date of this act.*

28 *Sec. 3. K.S.A. 38-2270 and K.S.A. 2023 Supp. 38-2203 and 38-*
29 *2203a are hereby repealed.*

30 *Sec. 4. This act shall take effect and be in force from and after its*
31 *publication in the Kansas register.*