

2023 Kansas Statutes

38-2203. Jurisdiction; application of the Indian child welfare act; age of child, presumptions; precedence of certain orders. [See Revisor's Note] (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, K.S.A. 2023 Supp. 38-2201a, 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. 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. 23-37,101 through 23-37,405, and amendments thereto, uniform child custody jurisdiction and enforcement act.

History: L. 2006, ch. 200, § 3; L. 2008, ch. 169, § 2; L. 2009, ch. 99, § 2; L. 2010, ch. 75, § 6; L. 2011, ch. 24, § 4; L. 2012, ch. 162, § 61; L. 2023, ch. 70, § 4; May 4. Section was amended multiple times in the 2023 session, see also 38-2203a.