

HOUSE BILL No. 2542

By Committee on Children and Families

1-25

1 AN ACT concerning citizen review boards; duties and powers;
2 appointment of; amending K.S.A. 38-1808 and K.S.A. 2011 Supp. 38-
3 2202, 38-2207, 38-2210, 38-2213, 38-2255 and 38-2264 and repealing
4 the existing sections; also repealing K.S.A. 2011 Supp. 38-2255b.
5

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

7 Section 1. K.S.A. 38-1808 is hereby amended to read as follows: 38-
8 1808. (a) There is hereby established in the state treasury the family and
9 children investment fund. The family and children investment fund shall
10 be administered as provided in this section.

11 (b) There shall be credited to the family and children investment fund
12 appropriations, gifts, grants, contributions, matching funds and participant
13 payments.

14 (c) (1) There is hereby created the family and children trust account
15 in the family and children investment fund. The secretary of social and
16 rehabilitation services shall administer the family and children trust
17 account.

18 (2) Moneys credited to the family and children trust account shall be
19 used for the following purposes: (A) Matching federal moneys to purchase
20 services relating to community-based programs for the broad range of
21 child abuse and neglect prevention activities; (B) providing start-up or
22 expansion grants for community-based prevention projects for the broad
23 range of child abuse and neglect prevention activities; (C) studying and
24 evaluating community-based prevention projects for the broad range of
25 child abuse and neglect prevention activities; (D) preparing, publishing,
26 purchasing and disseminating educational material dealing with the broad
27 range of child abuse and neglect prevention activities; and (E) payment of
28 the administrative costs of the family and children trust account and of that
29 portion of the Kansas children's cabinet, established pursuant to K.S.A. 38-
30 1901, and amendments thereto, which are attributable to the family and
31 children trust account, and that portion of the administrative costs of the
32 board of trustees, of the Kansas public employees retirement system
33 established by K.S.A. 74-4905, and amendments thereto, which are
34 attributable to the family and children endowment account of the family
35 and children investment fund. No moneys in the family and children trust
36 account shall be used for the purpose of providing services for the

1 voluntary termination of pregnancy.

2 (3) Expenditures from the family and children trust account shall be
3 subject to the approval of the Kansas children's cabinet established
4 pursuant to K.S.A. 38-1901, and amendments thereto. All expenditures
5 from the family and children trust account shall be made in accordance
6 with appropriation acts upon warrants of the director of accounts and
7 reports issued pursuant to vouchers approved by the secretary of social and
8 rehabilitation services or a person designated by the secretary.

9 (d) (1) There is hereby created the permanent families account in the
10 family and children investment fund. The judicial administrator of the
11 courts shall administer this account.

12 (2) Moneys credited to the permanent families account shall be used
13 for the following purposes: (A) Not more than 12% of the amount credited
14 to the permanent families account during the fiscal year may be used to
15 provide technical assistance to district courts or local groups wanting to
16 establish a local citizen review board or a court-appointed special advocate
17 program, including but not limited to such staff as necessary to provide
18 such assistance, and to provide services necessary for the administration of
19 such board or program, including but not limited to grants administration,
20 accounting, data collection, report writing and training of local citizen
21 review board staff; (B) grants to court-appointed special advocate
22 programs, upon application approved by the chief judge of the judicial
23 district where the program is located; and (C) grants to district courts,
24 upon application of the chief judge of the judicial district, for expenses of
25 establishment, operation and evaluation of local citizen review boards in
26 the judicial district, including costs of: (i) Employing local citizen review
27 board coordinators and clerical staff; (ii) telephone, photocopying and
28 office equipment and supplies for which there are shown to be no local
29 funds available; (iii) mileage of staff and board members; and (iv) training
30 staff and board members.

31 (3) In addition to the other duties and powers provided by law, in
32 administering the permanent families account, the judicial administrator
33 shall:

34 (A) Accept and receive grants, loans, gifts or donations from any
35 public or private entity in support of programs administered by the judicial
36 administrator and assist in the development of supplemental funding
37 sources for local and state programs;

38 (B) consider applications for and make such grants from the
39 permanent families account as authorized by law; and

40 (C) receive reports from local citizen review boards established
41 pursuant to K.S.A. ~~38-1812~~ *2011 Supp. 38-2207*, and amendments thereto,
42 regarding the status of children under the supervision of the district courts
43 and regarding systemic barriers to permanence for children, assure that

1 appropriate data is maintained regularly and compiled at least once a year
2 by such boards on all cases reviewed and assure that the effectiveness of
3 such boards is evaluated on an ongoing basis, using, where possible,
4 random selection of local citizen review boards and cases for the
5 evaluation and including client outcome data to determine effectiveness.

6 (4) All expenditures from the permanent families account shall be
7 made in accordance with appropriation acts upon warrants of the director
8 of accounts and reports issued pursuant to vouchers approved by the
9 judicial administrator or a person designated by the judicial administrator.

10 (e) The family and children endowment account of the family and
11 children investment fund shall constitute and shall be administered as an
12 endowment for the purposes for which expenditures may be made from the
13 family and children trust account of the family and children investment
14 fund. The family and children endowment account of the family and
15 children investment fund shall be invested by the board of trustees of the
16 Kansas public employees retirement system established by K.S.A. 74-
17 4905, and amendments thereto. All interest or other income of the
18 investments of the moneys in the family and children trust endowment
19 account of the family and children investment fund, after payment of any
20 management and administrative fees, shall be considered income of the
21 family and children trust account of the family and children investment
22 fund and shall be deposited in the state treasury to the credit of the family
23 and children trust account of the family and children investment fund.

24 (f) On or before the 10th of each month, the director of accounts and
25 reports shall transfer from the state general fund to the family and children
26 investment fund interest earnings based on:

27 (1) The average daily balance of moneys in the family and children
28 investment fund for the preceding month, excluding all amounts credited
29 to the family and children endowment account of the family and children
30 investment fund; and

31 (2) the net earnings rate of the pooled money investment portfolio for
32 the preceding month.

33 Sec. 2. K.S.A. 2011 Supp. 38-2202 is hereby amended to read as
34 follows: 38-2202. As used in the revised Kansas code for care of children,
35 unless the context otherwise indicates:

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

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

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

1 (d) "Child in need of care" means a person less than 18 years of age
2 at the time of filing of the petition or issuance of an ex parte protective
3 custody order pursuant to K.S.A. 2011 Supp. 38-2242, and amendments
4 thereto, who:

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

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

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

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

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

14 (6) is not attending school as required by K.S.A. 72-977 or 72-1111,
15 and amendments thereto;

16 (7) except in the case of a violation of K.S.A. 41-727, subsection (j)
17 of K.S.A. 74-8810, subsection (m) or (n) of K.S.A. 79-3321, or subsection
18 (a)(14) of K.S.A. 2011 Supp. 21-6301, and amendments thereto, or, except
19 as provided in paragraph (12), does an act which, when committed by a
20 person under 18 years of age, is prohibited by state law, city ordinance or
21 county resolution but which is not prohibited when done by an adult;

22 (8) while less than 10 years of age, commits any act which if done by
23 an adult would constitute the commission of a felony or misdemeanor as
24 defined by K.S.A. 2011 Supp. 21-5102, and amendments thereto;

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

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

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

35 (12) while less than 10 years of age commits the offense defined in
36 or* subsection (a)(14) of K.S.A. 2011 Supp. 21-6301, and amendments
37 thereto; or

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

40 (e) "Citizen review board" is a group of community volunteers
41 appointed by the ~~court~~ *governor and the secretary of social and*
42 *rehabilitation services* and whose duties are prescribed by K.S.A. 2011
43 Supp. 38-2207 and 38-2208, and amendments thereto.

1 (f) "Civil custody case" includes any case filed under article 11, of
2 chapter 38 of the Kansas Statutes Annotated, and amendments thereto
3 (determination of parentage), article 21 of chapter 59 of the Kansas
4 Statutes Annotated, and amendments thereto (adoption and relinquishment
5 act), article 30 of chapter 59 of the Kansas Statutes Annotated, and
6 amendments thereto (guardians and conservators), or article 16 of chapter
7 60 of the Kansas Statutes Annotated, and amendments thereto (divorce).

8 (g) "Court-appointed special advocate" means a responsible adult
9 other than an attorney guardian ad litem who is appointed by the court to
10 represent the best interests of a child, as provided in K.S.A. 2011 Supp.
11 38-2206, and amendments thereto, in a proceeding pursuant to this code.

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

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

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

23 (k) "Educator" means any administrator, teacher or other professional
24 or paraprofessional employee of an educational institution who has
25 exposure to a pupil specified in subsection (a) of K.S.A. 72-89b03, and
26 amendments thereto.

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

28 (m) "Interested party" means the grandparent of the child, a person
29 with whom the child has been living for a significant period of time when
30 the child in need of care petition is filed, and any person made an
31 interested party by the court pursuant to K.S.A. 2011 Supp. 38-2241, and
32 amendments thereto, or Indian tribe seeking to intervene that is not a party.

33 (n) "Jail" means:

34 (1) An adult jail or lockup; or

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

1 care staff such as recreational, educational and counseling.

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

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

9 (q) "Kinship care" means the placement of a child in the home of the
10 child's relative or in the home of another adult with whom the child or the
11 child's parent already has a close emotional attachment.

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

16 (s) "Multidisciplinary team" means a group of persons, appointed by
17 the court under K.S.A. 2011 Supp. 38-2228, and amendments thereto,
18 which has knowledge of the circumstances of a child in need of care.

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

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

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

30 (3) failure to use resources available to treat a diagnosed medical
31 condition if such treatment will make a child substantially more
32 comfortable, reduce pain and suffering, or correct or substantially diminish
33 a crippling condition from worsening. A parent legitimately practicing
34 religious beliefs who does not provide specified medical treatment for a
35 child because of religious beliefs shall not for that reason be considered a
36 negligent parent; however, this exception shall not preclude a court from
37 entering an order pursuant to subsection (a)(2) of K.S.A. 2011 Supp. 38-
38 2217, and amendments thereto.

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

42 (v) "Party" means the state, the petitioner, the child, any parent of the
43 child and an Indian child's tribe intervening pursuant to the Indian child

1 welfare act.

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

5 (x) "Permanent custodian" means a judicially approved permanent
6 guardian of a child pursuant to K.S.A. 2011 Supp. 38-2272, and
7 amendments thereto.

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

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

15 (aa) "Relative" means a person related by blood, marriage or adoption
16 but, when referring to a relative of a child's parent, does not include the
17 child's other parent.

18 (bb) "Secretary" means the secretary of social and rehabilitation
19 services or the secretary's designee.

20 (cc) "Secure facility" means a facility which is operated or structured
21 so as to ensure that all entrances and exits from the facility are under the
22 exclusive control of the staff of the facility, whether or not the person
23 being detained has freedom of movement within the perimeters of the
24 facility, or which relies on locked rooms and buildings, fences or physical
25 restraint in order to control behavior of its residents. No secure facility
26 shall be in a city or county jail.

27 (dd) "Sexual abuse" means any contact or interaction with a child in
28 which the child is being used for the sexual stimulation of the perpetrator,
29 the child or another person. Sexual abuse shall include allowing,
30 permitting or encouraging a child to engage in prostitution or to be
31 photographed, filmed or depicted in pornographic material.

32 (ee) "Shelter facility" means any public or private facility or home
33 other than a juvenile detention facility that may be used in accordance with
34 this code for the purpose of providing either temporary placement for
35 children in need of care prior to the issuance of a dispositional order or
36 longer term care under a dispositional order.

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

1 services waivers.

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

6 Sec. 3. K.S.A. 2011 Supp. 38-2207 is hereby amended to read as
7 follows: 38-2207. (a) Subject to the availability of funds in the permanent
8 families account of the family and children investment fund for citizen
9 review boards, and subject to a request from a judicial district, there shall
10 be citizen review boards in *all* judicial districts, ~~or portions of such~~
11 ~~districts.~~

12 (b) The chief judge of ~~the~~ *each* judicial district, or another judge
13 designated by the chief judge, ~~shall appoint three to seven citizens from~~
14 ~~the community to serve on each citizen review board shall send a list of 10~~
15 *citizens' names from the community, of persons who would volunteer to be*
16 *on the citizen review board for the judicial district, to the governor and the*
17 *secretary of social and rehabilitation services by January 1, 2013, and by*
18 *January 1 of every odd year thereafter. For small judicial districts, the*
19 *governor shall appoint two citizens from the list and the secretary shall*
20 *appoint one citizen to serve on that district's citizen review board. For*
21 *large judicial districts, the governor shall appoint four citizens from the*
22 *list and the secretary shall appoint three citizens from the list to serve on*
23 *that district's citizen review board. Such members shall represent the*
24 *various socioeconomic and ethnic groups of the judicial district, and shall*
25 *have a special interest in children. Such judge may also appoint alternates*
26 ~~when necessary.~~

27 (c) The term of appointment shall be two years and members may be
28 reappointed.

29 (d) Members shall serve without compensation but may be
30 reimbursed for mileage for out-of-county reviews.

31 (e) Each citizen review board shall meet quarterly and may meet
32 monthly if the number of cases to review requires such meetings.

33 (f) Members ~~and alternates~~ appointed to citizen review boards shall
34 receive at least six hours of training before reviewing a case.

35 (g) *Should a vacancy occur on a board, a replacement shall be*
36 *named from that district's list in like manner as the vacating member was*
37 *appointed.*

38 Sec. 4. K.S.A. 2011 Supp. 38-2210 is hereby amended to read as
39 follows: 38-2210. To facilitate investigation and ensure the provision of
40 necessary services to children who may be in need of care and such
41 children's families, the following persons and entities with responsibilities
42 concerning a child who is alleged or adjudicated to be in need of care shall
43 freely exchange information:

- 1 (a) The secretary.
- 2 (b) The commissioner of juvenile justice.
- 3 (c) The law enforcement agency receiving such report.
- 4 (d) Members of a court appointed multidisciplinary team.
- 5 (e) An entity mandated by federal law or an agency of any state
- 6 authorized to receive and investigate reports of a child known or suspected
- 7 to be in need of care.
- 8 (f) A military enclave or Indian tribal organization authorized to
- 9 receive and investigate reports of a child known or suspected to be in need
- 10 of care.
- 11 (g) *The members of a citizen review board reviewing a child's case.*
- 12 ~~(g)~~ (h) A county or district attorney with responsibility for filing a
- 13 petition pursuant to K.S.A. 2011 Supp. 38-2214, and amendments thereto.
- 14 ~~(h)~~ (i) A court services officer who has taken a child into custody
- 15 pursuant to K.S.A. 2011 Supp. 38-2231, and amendments thereto.
- 16 ~~(i)~~ (j) An intake and assessment worker.
- 17 ~~(j)~~ (k) Any community corrections program which has the child under
- 18 court ordered supervision.
- 19 ~~(k)~~ (l) The department of health and environment or persons
- 20 authorized by the department of health and environment pursuant to
- 21 K.S.A. 65-512, and amendments thereto, for the purpose of carrying out
- 22 responsibilities relating to licensure or registration of child care providers
- 23 as required by article 5 of chapter 65 of the Kansas Statutes Annotated,
- 24 and amendments thereto.
- 25 Sec. 5. K.S.A. 2011 Supp. 38-2213 is hereby amended to read as
- 26 follows: 38-2213. (a) *Principle of limited disclosure.* Information
- 27 contained in confidential law enforcement records concerning a child
- 28 alleged or adjudicated to be in need of care may be disclosed as provided
- 29 in this section. Disclosure shall in all cases be guided by the principle of
- 30 providing access only to persons or entities with a need for information
- 31 that is directly related to achieving the purposes of this code.
- 32 (b) *Free exchange of information.* Pursuant to K.S.A. 2011 Supp. 38-
- 33 2210, and amendments thereto, a law enforcement agency shall participate
- 34 in the free exchange of information concerning a child who is alleged or
- 35 adjudicated to be in need of care.
- 36 (c) *Access to information in law enforcement records.* In order to
- 37 discharge their official duties, the following persons or entities shall have
- 38 access to confidential law enforcement records concerning a child alleged
- 39 or adjudicated to be in need of care.
- 40 (1) The court having jurisdiction over the proceedings, including the
- 41 presiding judge and any court personnel designated by the judge.
- 42 (2) The secretary.
- 43 (3) The commissioner of juvenile justice.

1 (4) Law enforcement officers or county or district attorneys or their
2 staff.

3 (5) Any juvenile intake and assessment worker.

4 (6) Members of a court-appointed multidisciplinary team.

5 (7) *The members of a citizen review board reviewing a child's case.*

6 ~~(7)~~ (8) Any other federal, state or local government executive branch
7 entity, or any agent of such entity, having a need for such information in
8 order to carry out such entity's responsibilities under law to protect
9 children from abuse and neglect.

10 ~~(8)~~ (9) Persons or entities allowed access pursuant to subsection (f) of
11 K.S.A. 2011 Supp. 38-2212, and amendments thereto.

12 (d) *Necessary access.* The following persons or entities shall have
13 access to information from law enforcement records when reasonably
14 necessary to carry out their lawful responsibilities, to maintain their
15 personal safety and the personal safety of individuals in their care, or to
16 educate, diagnose, treat, care for or protect a child alleged or adjudicated
17 to be in need of care. Information authorized to be disclosed in this
18 subsection shall not contain information which identifies a reporter of a
19 child alleged or adjudicated to be a child in need of care.

20 (1) Any individual, or public or private agency authorized by a
21 properly constituted authority to diagnose, care for, treat or supervise a
22 child who is the subject of a report or record of child abuse or neglect,
23 including physicians, psychiatrists, nurses, nurse practitioners,
24 psychologists, licensed social workers, child development specialists,
25 physician assistants, community mental health workers, alcohol and drug
26 abuse counselors, and licensed or registered child care providers.

27 (2) School administrators shall have access to but shall not copy law
28 enforcement records and may disclose information to teachers,
29 paraprofessionals and other school personnel as necessary to meet the
30 educational needs of the child or to protect the safety of students and
31 school employees.

32 (3) The department of health and environment or persons authorized
33 by the department of health and environment pursuant to K.S.A. 65-512,
34 and amendments thereto, for the purposes of carrying out responsibilities
35 relating to licensure or registration of child care providers as required by
36 article 5 of chapter 65 of the Kansas Statutes Annotated, and amendments
37 thereto.

38 (e) *Legislative access.* Information from law enforcement records of a
39 child alleged or adjudicated to be in need of care shall be available to
40 members of the standing house or senate committee on judiciary, house
41 committee on corrections and juvenile justice, house committee on
42 appropriations, senate committee on ways and means, legislative post audit
43 committee and any joint committee with authority to consider children's

1 and families' issues, when carrying out such member's or committee's
2 official functions in accordance with K.S.A. 75-4319, and amendments
3 thereto, in a closed or executive meeting. Except in limited conditions
4 established by $\frac{2}{3}$ of the members of such committee, records and reports
5 received by the committee shall not be further disclosed. Unauthorized
6 disclosure may subject such member to discipline or censure from the
7 house of representatives or senate.

8 (f) *Court order.* Notwithstanding the provisions of this section, a
9 court of competent jurisdiction, after in camera inspection, may order
10 disclosure of confidential law enforcement records pursuant to a
11 determination that the disclosure is in the best interests of the child who is
12 the subject of the reports or that the records are necessary for the
13 proceedings of the court and otherwise admissible as evidence. The court
14 shall specify the terms of disclosure and impose appropriate limitations.

15 Sec. 6. K.S.A. 2011 Supp. 38-2255 is hereby amended to read as
16 follows: 38-2255. (a) *Considerations.* Prior to entering an order of
17 disposition, the court shall give consideration to:

18 (1) The child's physical, mental and emotional condition;
19 (2) the child's need for assistance;
20 (3) the manner in which the parent participated in the abuse, neglect
21 or abandonment of the child;

22 (4) any relevant information from the intake and assessment process;

23 ~~and~~

24 (5) the evidence received at the dispositional hearing; *and*

25 (6) *the recommendations of the citizen review board for that judicial*
26 *district.*

27 (b) *Custody with a parent.* The court may place the child in the
28 custody of either of the child's parents subject to terms and conditions
29 which the court prescribes to assure the proper care and protection of the
30 child, including, but not limited to:

31 (1) Supervision of the child and the parent by a court services officer;

32 (2) participation by the child and the parent in available programs
33 operated by an appropriate individual or agency; and

34 (3) any special treatment or care which the child needs for the child's
35 physical, mental or emotional health and safety.

36 (c) *Removal of a child from custody of a parent.* The court shall not
37 enter the initial order removing a child from the custody of a parent
38 pursuant to this section unless the court first finds probable cause that: (1)
39 (A) The child is likely to sustain harm if not immediately removed from
40 the home;

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

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

1 child; and

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

5 The court shall not enter an order removing a child from the custody of
6 a parent pursuant to this section based solely on the finding that the parent
7 is homeless.

8 (d) *Custody of a child removed from the custody of a parent.* If the
9 court has made the findings required by subsection (c), the court shall
10 enter an order awarding custody to a relative of the child or to a person
11 with whom the child has close emotional ties who shall not be required to
12 be licensed under article 5 of chapter 65 of the Kansas Statutes Annotated,
13 and amendments thereto, to any other suitable person, to a shelter facility,
14 to a youth residential facility or, if the child is 15 years of age or younger,
15 or 16 or 17 years of age if the child has no identifiable parental or family
16 resources or shows signs of physical, mental, emotional or sexual abuse, to
17 the secretary. Custody awarded under this subsection shall continue until
18 further order of the court.

19 (1) When custody is awarded to the secretary, the secretary shall
20 consider any placement recommendation by the court and notify the court
21 of the placement or proposed placement of the child within ~~40~~ 14 days of
22 the order awarding custody. After providing the parties or interested parties
23 notice and opportunity to be heard, the court may determine whether the
24 secretary's placement or proposed placement is contrary to the welfare or
25 in the best interests of the child. In making that determination the court
26 shall consider the health and safety needs of the child and the resources
27 available to meet the needs of children in the custody of the secretary. If
28 the court determines that the placement or proposed placement is contrary
29 to the welfare or not in the best interests of the child, the court shall notify
30 the secretary, who shall then make an alternative placement.

31 (2) The custodian designated under this subsection shall notify the
32 court in writing at least ~~40~~ 14 days prior to any planned placement with a
33 parent. The written notice shall state the basis for the custodian's belief that
34 placement with a parent is no longer contrary to the welfare or best interest
35 of the child. Upon reviewing the notice, the court may allow the custodian
36 to proceed with the planned placement or may set the date for a hearing to
37 determine if the child shall be allowed to return home. If the court sets a
38 hearing on the matter, the custodian shall not return the child home without
39 written consent of the court.

40 (3) The court may grant any person reasonable rights to visit the child
41 upon motion of the person and a finding that the visitation rights would be
42 in the best interests of the child.

43 (4) The court may enter an order restraining any alleged perpetrator

1 of physical, mental or emotional abuse or sexual abuse of the child from
2 residing in the child's home; visiting, contacting, harassing or intimidating
3 the child, other family member or witness; or attempting to visit, contact,
4 harass or intimidate the child, other family member or witness. Such
5 restraining order shall be served by personal service pursuant to subsection
6 (a) of K.S.A. 2011 Supp. 38-2237, and amendments thereto, on any
7 alleged perpetrator to whom the order is directed.

8 (5) The court shall provide a copy of any orders entered within ~~40~~ 14
9 days of entering the order to the custodian designated under this
10 subsection.

11 (e) *Further determinations regarding a child removed from the home.*
12 If custody has been awarded under subsection (d) to a person other than a
13 parent, a permanency plan shall be provided or prepared pursuant to
14 K.S.A. 2011 Supp. 38-2264, and amendments thereto. If a permanency
15 plan is provided at the dispositional hearing, the court may determine
16 whether reintegration is a viable alternative or, if reintegration is not a
17 viable alternative, whether the child should be placed for adoption or a
18 permanent custodian appointed. In determining whether reintegration is a
19 viable alternative, the court shall consider:

20 (1) Whether a parent has been found by a court to have committed
21 one of the following crimes or to have violated the law of another state
22 prohibiting such crimes or to have aided and abetted, attempted, conspired
23 or solicited the commission of one of these crimes: (A) Murder in the first
24 degree, K.S.A. 21-3401, prior to its repeal, or K.S.A. 2011 Supp. 21-5402,
25 and amendments thereto; (B) murder in the second degree, K.S.A. 21-
26 3402, prior to its repeal, or K.S.A. 2011 Supp. 21-5403, and amendments
27 thereto; (C) capital murder, K.S.A. 21-3439, prior to its repeal, or K.S.A.
28 2011 Supp. 21-5401, and amendments thereto; (D) voluntary
29 manslaughter, K.S.A. 21-3403, prior to its repeal, or K.S.A. 2011 Supp.
30 21-5404, and amendments thereto; or (E) a felony battery that resulted in
31 bodily injury;

32 (2) whether a parent has subjected the child or another child to
33 aggravated circumstances;

34 (3) whether a parent has previously been found to be an unfit parent
35 in proceedings under this code or in comparable proceedings under the
36 laws of another state or the federal government;

37 (4) whether the child has been in extended out of home placement;

38 (5) whether the parents have failed to work diligently toward
39 reintegration;

40 (6) whether the secretary has provided the family with services
41 necessary for the safe return of the child to the home; and

42 (7) whether it is reasonable to expect reintegration to occur within a
43 time frame consistent with the child's developmental needs.

1 (f) *Proceedings if reintegration is not a viable alternative.* If the court
2 determines that reintegration is not a viable alternative, proceedings to
3 terminate parental rights and permit placement of the child for adoption or
4 appointment of a permanent custodian shall be initiated unless the court
5 finds that compelling reasons have been documented in the case plan why
6 adoption or appointment of a permanent custodian would not be in the best
7 interests of the child. If compelling reasons have not been documented, the
8 county or district attorney shall file a motion within 30 days to terminate
9 parental rights or a motion to appoint a permanent custodian within 30
10 days and the court shall hold a hearing on the motion within 90 days of its
11 filing. No hearing is required when the parents voluntarily relinquish
12 parental rights or consent to the appointment of a permanent custodian.

13 (g) *Additional Orders.* In addition to or in lieu of any other order
14 authorized by this section:

15 (1) The court may order the child and the parents of any child who
16 has been adjudicated a child in need of care to attend counseling sessions
17 as the court directs. The expense of the counseling may be assessed as an
18 expense in the case. No mental health provider shall charge a greater fee
19 for court-ordered counseling than the provider would have charged to the
20 person receiving counseling if the person had requested counseling on the
21 person's own initiative.

22 (2) If the court has reason to believe that a child is before the court
23 due, in whole or in part, to the use or misuse of alcohol or a violation of
24 K.S.A. 2011 Supp. 21-5701 through 21-5717, and amendments thereto, by
25 the child, a parent of the child, or another person responsible for the care
26 of the child, the court may order the child, parent of the child or other
27 person responsible for the care of the child to submit to and complete an
28 alcohol and drug evaluation by a qualified person or agency and comply
29 with any recommendations. If the evaluation is performed by a
30 community-based alcohol and drug safety program certified pursuant to
31 K.S.A. 8-1008, and amendments thereto, the child, parent of the child or
32 other person responsible for the care of the child shall pay a fee not to
33 exceed the fee established by that statute. If the court finds that the child
34 and those legally liable for the child's support are indigent, the fee may be
35 waived. In no event shall the fee be assessed against the secretary.

36 (3) If child support has been requested and the parent or parents have
37 a duty to support the child, the court may order one or both parents to pay
38 child support and, when custody is awarded to the secretary, the court shall
39 order one or both parents to pay child support. The court shall determine,
40 for each parent separately, whether the parent is already subject to an order
41 to pay support for the child. If the parent is not presently ordered to pay
42 support for any child who is subject to the jurisdiction of the court and the
43 court has personal jurisdiction over the parent, the court shall order the

1 parent to pay child support in an amount determined under K.S.A. 2011
2 Supp. 38-2277, and amendments thereto. Except for good cause shown,
3 the court shall issue an immediate income withholding order pursuant to
4 K.S.A. 23-4,105 *et seq.*, and amendments thereto, for each parent ordered
5 to pay support under this subsection, regardless of whether a payor has
6 been identified for the parent. A parent ordered to pay child support under
7 this subsection shall be notified, at the hearing or otherwise, that the child
8 support order may be registered pursuant to K.S.A. 2011 Supp. 38-2279,
9 and amendments thereto. The parent shall also be informed that, after
10 registration, the income withholding order may be served on the parent's
11 employer without further notice to the parent and the child support order
12 may be enforced by any method allowed by law. Failure to provide this
13 notice shall not affect the validity of the child support order.

14 Sec. 7. K.S.A. 2011 Supp. 38-2264 is hereby amended to read as
15 follows: 38-2264. (a) A permanency hearing is a proceeding conducted by
16 the court or by a citizen review board for the purpose of determining
17 progress toward accomplishment of a permanency plan as established by
18 K.S.A. 2011 Supp. 38-2263, and amendments thereto.

19 (b) ~~The court or a citizen review board shall hear and the court shall~~
20 ~~determine~~ *review, hear and make recommendations to the court to aid the*
21 *court in determining* whether and, if applicable, when the child will be:

- 22 (1) Reintegrated with the child's parents;
- 23 (2) placed for adoption;
- 24 (3) placed with a permanent custodian; or
- 25 (4) if the secretary has documented compelling reasons why it would
26 not be in the child's best interests for a placement in one of the placements
27 pursuant to paragraphs (1), (2) or (3) placed in another planned permanent
28 arrangement.

29 (c) The court shall enter a finding as to whether reasonable efforts
30 have been made by appropriate public or private agencies to rehabilitate
31 the family and achieve the permanency goal in place at the time of the
32 hearing.

33 (d) A permanency hearing shall be held within 12 months of the date
34 the court authorized the child's removal from the home and not less
35 frequently than every 12 months thereafter.

36 (e) If the court determines at any time other than during a
37 permanency hearing that reintegration may not be a viable alternative for
38 the child, a permanency hearing shall be held no later than 30 days
39 following that determination.

40 (f) When the court finds that reintegration continues to be a viable
41 alternative, the court shall determine whether and, if applicable, when the
42 child will be returned to the parent. The court may rescind any of its prior
43 dispositional orders and enter any dispositional order authorized by this

1 code or may order that a new plan for the reintegration be prepared and
2 submitted to the court. If reintegration cannot be accomplished as
3 approved by the court, the court shall be informed and shall schedule a
4 hearing pursuant to this section. No such hearing is required when the
5 parents voluntarily relinquish parental rights or consent to appointment of
6 a permanent custodian.

7 (g) If the court finds reintegration is no longer a viable alternative, the
8 court shall consider whether: (1) The child is in a stable placement with a
9 relative; (2) services set out in the case plan necessary for the safe return
10 of the child have been made available to the parent with whom
11 reintegration is planned; or (3) compelling reasons are documented in the
12 case plan to support a finding that neither adoption nor appointment of a
13 permanent custodian are in the child's best interest. If reintegration is not a
14 viable alternative and either adoption or appointment of a permanent
15 custodian might be in the best interests of the child, the county or district
16 attorney or the county or district attorney's designee shall file a motion to
17 terminate parental rights or a motion to appoint a permanent custodian
18 within 30 days and the court shall set a hearing on such motion within 90
19 days of the filing of such motion.

20 (h) If the court enters an order terminating parental rights to a child,
21 or an agency has accepted a relinquishment pursuant to K.S.A. 59-2124,
22 and amendments thereto, the requirements for permanency hearings shall
23 continue until an adoption or appointment of a permanent custodian has
24 been accomplished. If the court determines that reasonable efforts or
25 progress have not been made toward finding an adoptive placement or
26 appointment of a permanent custodian or placement with a fit and willing
27 relative, the court may rescind its prior orders and make others regarding
28 custody and adoption that are appropriate under the circumstances.
29 Reports of a proposed adoptive placement need not contain the identity of
30 the proposed adoptive parents.

31 (i) If permanency with one parent has been achieved without the
32 termination of the other parent's rights, the court may, prior to dismissing
33 the case, enter child custody orders, including residency and parenting
34 time that the court determines to be in the best interests of the child. The
35 court shall complete a parenting plan pursuant to K.S.A. 60-1625, and
36 amendments thereto.

37 (1) Before entering a custody order under this subsection, the court
38 shall inquire whether a custody order has been entered or is pending in a
39 civil custody case by a court of competent jurisdiction within the state of
40 Kansas.

41 (2) If a civil custody case has been filed or is pending, a certified
42 copy of the custody, residency and parenting time orders shall be filed in
43 the civil custody case. The court in the civil custody case may, after

1 consultation with the court in the child in need of care case, enter an order
2 declaring that the custody order in the child in need of care case shall
3 become the custody order in the civil custody case.

4 (3) A district court, on its own motion or upon the motion of any
5 party, may order the consolidation of the child in need of care case with
6 any open civil custody case involving the child and both of the child's
7 parents. Custody, residency and parenting time orders entered in
8 consolidated child in need of care and civil custody cases take precedence
9 over any previous orders affecting both parents and the child that were
10 entered in the civil custody case regarding the same or related issues.
11 Following entry of a custody order in a consolidated case, the court shall
12 dismiss the child in need of care case and, if necessary, return the civil
13 custody case to the original court having jurisdiction over it.

14 (4) If no civil custody case has been filed, the court may direct the
15 parties to file a civil custody case and to file the custody orders from the
16 child in need of care case in that case. Costs of the civil custody case may
17 be assessed to the parties.

18 (5) Nothing in this subsection shall operate to expand access to
19 information that is confidential under K.S.A. 38-2209, and amendments
20 thereto, and the confidentiality of such information shall be preserved in
21 all filings in a civil custody case.

22 (j) When permanency has been achieved to the satisfaction of the
23 court, the court shall enter an order closing the case.

24 Sec. 8. K.S.A. 38-1808 and K.S.A. 2011 Supp. 38-2202, 38-2207, 38-
25 2210, 38-2213, 38-2255, 38-2255b and 38-2264 are hereby repealed.

26 Sec. 9. This act shall take effect and be in force from and after its
27 publication in the statute book.

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