

SENATE BILL No. 394

By Committee on Assessment and Taxation

2-13

1 AN ACT concerning children and minors; enacting the Kansas foster
2 parents' bill of rights act; relating to foster care; family foster homes;
3 establishing the state foster care and adoption board; amending K.S.A.
4 2013 Supp. 38-2210, 38-2212, 38-2213, 38-2258, 38-2259 and 38-2270
5 and repealing the existing sections.
6

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

8 New Section 1. (a) The provisions of this act shall be known and may
9 be cited as the Kansas foster parents' bill of rights act.

10 (b) (1) The Kansas department for children and families, department
11 of health and environment and their contractors, recognizing that foster
12 parents are not clients, but rather are colleagues on the child welfare team,
13 shall treat foster parents in a manner consistent with the national
14 association of social workers' code of ethics. Foster parents shall treat all
15 children in their care, each child's birth family and all members of the
16 child welfare team in a manner consistent with their ethical responsibilities
17 as team members.

18 (2) The Kansas department for children and families, department of
19 health and environment and their contractors shall provide written
20 notification of the rights enumerated in this section to foster parents at the
21 time of initial licensure and at the time of each licensure renewal following
22 the initial licensure period.

23 (3) The Kansas department for children and families shall make its
24 policies available to foster parents and the public by publishing the
25 prevention and protection services policy procedure manual and other
26 relevant materials on the department's public website.

27 (c) (1) The Kansas department for children and families, department
28 of health and environment and their contractors shall provide foster
29 parents with regularly scheduled opportunities for pre-service training, and
30 regularly scheduled opportunities for pertinent in-service training. Training
31 conducted by foster parent support groups shall be recognized as pertinent,
32 and information about training offered by foster parent support groups
33 shall be regularly shared with family foster homes licensed within the
34 region served by those support groups.

35 (2) The Kansas department for children and families and its
36 contractors shall provide to foster parents and potential adoption parents,

1 prior to placement, all pertinent information, including, but not limited to,
2 full disclosure of all medical, psychological and psychiatric conditions of
3 the child, as well as information from previous placements that would
4 indicate that the child or children may have a propensity to cause violence
5 or harm to any member of the foster family home. The foster parents shall
6 be provided with any information regarding the child or the child's family,
7 including, but not limited to, the case plan, any family history of mental or
8 physical illness, sexual abuse of the child or sexual abuse perpetrated by
9 the child, criminal background of the child or the child's family, fire-
10 setting or other destructive behavior by the child, substance abuse by the
11 child or the child's family and any other information which is pertinent to
12 the care and needs of the child and to protect the foster or adoptive family.
13 Knowingly providing false or misleading information to foster parents in
14 order to secure placement shall be denoted in the caseworker's personnel
15 file and shall be kept on record by the Kansas department for children and
16 families and its contractors.

17 (3) The Kansas department for children and families and its
18 contractors shall arrange for pre-placement visits between foster children
19 and family foster home parents, except in emergencies.

20 (4) Foster parents may ask questions about the child's case plan,
21 encourage a placement or refuse a placement without reprisal from the
22 caseworker or agency. After a placement, the Kansas department for
23 children and families and its contractors shall update the foster parents as
24 new information about the child and the child's parents, and other relatives,
25 is gathered.

26 (5) Foster parents shall be informed in a timely manner by the Kansas
27 department for children and families, department of health and
28 environment and their contractors of all team meetings and staffings
29 concerning their licensure status, or concerning the children placed in their
30 homes, and shall be allowed and encouraged to participate in such
31 meetings.

32 (6) The Kansas department for children and families, department of
33 health and environment and their contractors shall establish reasonably
34 accessible respite care for children in foster care for short periods of time,
35 jointly determined by foster parents and the child's caseworker. Foster
36 parents shall follow all policies and procedures established by the Kansas
37 department for children and families and its contractors for requesting and
38 using respite care.

39 (7) Foster parents shall treat all information received from the Kansas
40 department for children and families and its contractors about the child and
41 the child's family as confidential. Information necessary for the medical or
42 psychiatric care of the child may be provided to the appropriate
43 practitioners. Foster parents may share information necessary with school

1 personnel in order to secure a safe and appropriate education for the child.
2 Additionally, foster parents shall share information they may learn about
3 the child and the child's family, and concerns that arise in the care of the
4 child, with the caseworker and other members of the child welfare team.

5 (8) Recognizing that placement changes are difficult and detrimental
6 to the health and well-being of children, foster parents shall seek all
7 necessary information and participate in pre-placement visits whenever
8 possible, before deciding whether or not to accept a child for placement.

9 (d) (1) Foster parents shall make decisions about the daily living
10 concerns of the child and shall be permitted to continue the practice of
11 their own family values and routines while respecting the child's cultural
12 heritage. All discipline shall be consistent with state law and rules and
13 regulations. The Kansas department for children and families and its
14 contractors shall allow foster parents to help plan visitation between the
15 child and the child's siblings or biological family. Visitations should be
16 scheduled at a time that meets the needs of the child, the biological family
17 members and the foster family whenever possible. Recognizing that
18 visitation is an important right of children in foster care, foster parents
19 shall be flexible and cooperative with family visits. Recognizing the
20 importance of a positive relationship between birth parents and foster
21 parents, whenever possible, foster parents shall assist in assuring frequent
22 and positive parent-child visitation by providing supervision for visits and
23 transporting children to and from visits.

24 (2) Foster parents shall provide care that is respectful of the child's
25 cultural identity and needs. Recognizing that cultural competency can be
26 learned, the Kansas department for children and families and its
27 contractors shall provide foster parents with training that specifically
28 addresses cultural needs of children, including, but not limited to,
29 information on skin and hair care, information on any specific religious or
30 cultural practices of the child's biological family and referrals to
31 community resources for ongoing education and support.

32 (3) Foster parents shall recognize that the purpose of discipline is to
33 teach and direct the behavior of the child and ensure that it is administered
34 in a humane and sensitive manner. Foster parents shall use discipline
35 methods which are consistent with policies, rules and regulations adopted
36 by the Kansas department for children and families.

37 (e) (1) The Kansas department for children and families and its
38 contractors shall provide, upon request by the former foster parents,
39 information on the child's progress after the child leaves foster care.

40 (2) Recognizing the importance of placement stability to the health
41 and well-being of children, except in an emergency, foster parents shall be
42 given 30 days' advance notice in accordance with K.S.A. 2013 Supp. 38-
43 2258, and amendments thereto, and a written statement of the reasons for

1 removal before a child is removed from such foster parents' family foster
2 home. Except in an emergency, foster parents shall have the right to
3 initiate a fair and impartial grievance process through which they may
4 contest the decision to remove a child from such foster parents' family
5 foster home, and during which no move of the child shall occur. When
6 foster parents request removal of a child from such foster parents' family
7 foster home, such foster parents shall give 14 days' advance notice to the
8 child's caseworker, except in an emergency.

9 (3) Recognizing the critical nature of attachment in the health and
10 well-being of children, if foster care placement is being considered for a
11 child that has previously been in foster care and such child is not placed in
12 the home of a relative, the child's former foster parents shall be given first
13 consideration for placement of the child and any subsequently born
14 siblings.

15 (4) Recognizing the critical nature of attachment in the health and
16 well-being of children, if a child becomes free for adoption while in foster
17 care, the child's foster parents, with whom the child has lived and
18 established attachment for a period of six months or longer, shall be given
19 first consideration for adoptive placement of the child in accordance with
20 K.S.A. 2013 Supp. 38-2270, and amendments thereto.

21 (5) If a foster child becomes free for adoption, and the foster parents
22 desire to adopt the child, they shall inform the caseworker within 60 days
23 of the caseworker's initial query. If they do not choose to pursue adoption,
24 foster parents shall make every effort to support and encourage the child's
25 placement in a permanent home, including, but not limited to, providing
26 information on the history and care needs of the child and accommodating
27 transitional visitation.

28 (f) (1) Unless a longer notice period is provided by law, foster parents
29 shall be informed by the court at least 14 days prior to all court hearings
30 pertaining to a child in their care, and shall be informed of their right to
31 attend and participate consistent with state and federal law.

32 (2) Foster parents, as members of the child welfare team, shall have
33 access to all court orders concerning the foster family and the children in
34 their care.

35 (g) (1) The Kansas department for children and families, department
36 of health and environment and their contractors shall provide access to a
37 fair and impartial grievance process to address licensure, case management
38 decisions and delivery of service issues. Foster parents shall have timely
39 access to the child placement agency's appeals and grievance processes,
40 and shall be free from acts of retaliation while exercising the right to
41 appeal and afterward.

42 (2) Foster parents shall have the right to access the services of a foster
43 parent ally when contesting agency decisions related to licensure, case

1 management decisions and delivery of service issues. Such foster parent
2 ally shall participate in a parent ally orientation program described in
3 K.S.A. 2013 Supp. 38-2247, and amendments thereto. After participating
4 in such program, such foster parent ally shall be permitted to attend and
5 participate in meetings, communicate with agencies with a written release
6 of information, and otherwise assist and support the foster parent.

7 (h) The Kansas department for children and families, department of
8 health and environment and their contractors shall provide training to
9 foster parents on their policies, rules and regulations and laws governing
10 the licensure of family foster homes, the provision of foster care and the
11 adoption process. Foster parents shall, upon request, be provided with
12 written documentation of the policies of the Kansas department for
13 children and families, department of health and environment and their
14 contractors. Foster parents shall comply with the licensure requirements
15 and policies of their licensing agency and child placing agency.

16 (i) For the purposes of this section, foster parent means a resource
17 family providing care to children in foster care in a family foster home, as
18 defined in section 3, and amendments thereto.

19 (j) This section shall be part of and supplemental to the revised
20 Kansas code for care of children.

21 New Sec. 2. (a) There is hereby created, within the the Kansas
22 department for children and families, the state foster care and adoption
23 board. The board shall provide consultation and assistance to the
24 department and shall draft and provide an independent review of the
25 department and its contractors' policies and procedures related to the
26 provision of foster care and adoption in Kansas, in order to improve the
27 provision of foster care and adoption services to children statewide. The
28 board shall be comprised of at least eight members as follows:

29 (1) Two members who are foster or adoptive parents from each of the
30 four regional areas delineated by the department for children and families
31 as follows: The east regional service area; the Kansas City regional service
32 area; the west regional service area; and the Wichita regional service area.
33 The eight regional members shall be appointed by the governor, subject to
34 confirmation by the senate as provided in K.S.A. 75-4315b, and
35 amendments thereto, based upon recommendations made by foster parent
36 support groups, child welfare boards, contract child placing agencies or
37 other similar entities. Except as provided by K.S.A. 46-2601, and
38 amendments thereto, no member appointed to the board by the governor
39 shall exercise any power, duty or function as a member of the board until
40 confirmed by the senate.

41 (2) The board may approve up to two additional representatives of
42 statewide foster care and adoption associations to be voting members of
43 the board.

1 (b) All members of the board shall serve for a term of two years and
2 until their successors are appointed or approved. Members may be
3 reappointed to the board for consecutive terms. All vacancies on the board
4 shall be filled for the unexpired term in the same manner in which the
5 board membership which is vacant was originally filled.

6 (c) Each member of the board shall be paid subsistence allowances
7 and mileage as provided in K.S.A. 75-3223, and amendments thereto. All
8 such expenses shall be paid from available appropriations of the Kansas
9 department for children and families upon warrants of the director of
10 accounts and reports issued pursuant to vouchers approved by the
11 secretary for children and families or a person designated by the secretary.

12 (d) The board shall be subject to the provisions of the open records
13 act, K.S.A. 45-215 et seq., and amendments thereto, and the open meetings
14 act, K.S.A. 75-4317 et seq., and amendments thereto.

15 (e) The board shall elect officers from the membership consisting of a
16 chairperson, co-chairperson and secretary. Officers shall serve for a term
17 of two years. The board may elect such other officers and establish such
18 committees as it deems appropriate.

19 (f) The board shall establish procedures as necessary to:

20 (1) Review proposed policies for the Kansas department for children
21 and families, department of health and environment and their contractors
22 and provide written opinions and recommendations for change to the
23 sending agency within 30 days of receipt of the proposed policy;

24 (2) provide draft policy suggestions at the request of the Kansas
25 department for children and families, department of health and
26 environment or their contractors, or in response to issues identified by the
27 board, to the appropriate or sending agency, for improvements in foster
28 care or adoption practice; and

29 (3) provide a written report of all annual activities of the board to the
30 secretary for children and families, secretary of health and environment
31 and the governor, and upon request, members of the legislature.

32 (g) The board shall exercise its powers and duties independently of
33 the Kansas department for children and families, department of health and
34 environment and their contractors, in order to ensure partnership and
35 accountability in the provision of services to the state's children who have
36 been affected by abuse and neglect. The secretary for children and families
37 shall provide budgetary, procurement and accounting functions and other
38 staff assistance as necessary to assist the board in carrying out the
39 provisions of this section.

40 New Sec. 3. (a) A family foster home is a child care facility that is a
41 private residence, including any adjacent grounds, in which a licensee
42 provides care for 24 hours a day for one or more children in foster care and
43 for which a license is required under the provisions of K.S.A. 65-501 et

1 seq., and amendments thereto.

2 (b) This section shall be part of and supplemental to article 5 of
3 chapter 65 of the Kansas Statutes Annotated, and amendments thereto.

4 Sec. 4. K.S.A. 2013 Supp. 38-2210 is hereby amended to read as
5 follows: 38-2210. To facilitate investigation and ensure the provision of
6 necessary services to children who may be in need of care and ~~such~~
7 ~~children's~~ *the families of such children*, the following persons and entities
8 with responsibilities concerning a child who is alleged or adjudicated to be
9 in need of care shall freely exchange information:

10 (a) The secretary.

11 (b) The commissioner of juvenile justice.

12 (c) The law enforcement agency receiving such report.

13 (d) Members of a court appointed multidisciplinary team.

14 (e) An entity mandated by federal law or an agency of any state
15 authorized to receive and investigate reports of a child known or suspected
16 to be in need of care.

17 (f) A military enclave or Indian tribal organization authorized to
18 receive and investigate reports of a child known or suspected to be in need
19 of care.

20 (g) A county or district attorney with responsibility for filing a
21 petition pursuant to K.S.A. 2013 Supp. 38-2214, and amendments thereto.

22 (h) A court services officer who has taken a child into custody
23 pursuant to K.S.A. 2013 Supp. 38-2231, and amendments thereto.

24 (i) An intake and assessment worker.

25 (j) Any community corrections program which has the child under
26 court ordered supervision.

27 (k) The department of health and environment or persons authorized
28 by the department of health and environment pursuant to K.S.A. 65-512,
29 and amendments thereto, for the purpose of carrying out responsibilities
30 relating to licensure or registration of child care providers as required by
31 article 5 of chapter 65 of the Kansas Statutes Annotated, and amendments
32 thereto.

33 (l) *Any foster parent or placement provider responsible for providing*
34 *for the day-to-day care of a child in custody of the secretary, for the*
35 *purpose of ensuring adequate care, safety and protection for the child.*

36 Sec. 5. K.S.A. 2013 Supp. 38-2212 is hereby amended to read as
37 follows: 38-2212. (a) *Principle of appropriate access.* Information
38 contained in confidential agency records concerning a child alleged or
39 adjudicated to be in need of care may be disclosed as provided in this
40 section. Disclosure shall in all cases be guided by the principle of
41 providing access only to persons or entities with a need for information
42 that is directly related to achieving the purposes of this code.

43 (b) *Free exchange of information.* Pursuant to K.S.A. 2013 Supp. 38-

1 2210, and amendments thereto, the secretary and juvenile intake and
2 assessment agencies shall participate in the free exchange of information
3 concerning a child who is alleged or adjudicated to be in need of care.

4 (c) *Necessary access.* The following persons or entities shall have
5 access to information from agency records. Access shall be limited to
6 information reasonably necessary to carry out their lawful responsibilities,
7 to maintain their personal safety and the personal safety of individuals in
8 their care, or to educate, diagnose, treat, care for or protect a child alleged
9 to be in need of care. Information authorized to be disclosed pursuant to
10 this subsection shall not contain information which identifies a reporter of
11 a child who is alleged or adjudicated to be a child in need of care.

12 (1) A child named in the report or records, a guardian ad litem
13 appointed for the child and the child's attorney.

14 (2) A parent or other person responsible for the welfare of a child, or
15 such person's legal representative.

16 (3) A court-appointed special advocate for a child, a citizen review
17 board or other advocate which reports to the court.

18 (4) A person licensed to practice the healing arts or mental health
19 profession in order to diagnose, care for, treat or supervise: (A) A child
20 whom such service provider reasonably suspects may be in need of care;
21 (B) a member of the child's family; or (C) a person who allegedly abused
22 or neglected the child.

23 (5) A person or entity licensed or registered by the secretary of health
24 and environment or approved by the secretary ~~of social and rehabilitation~~
25 ~~services for children and families~~ to care for, treat or supervise a child in
26 need of care.

27 (6) A coroner or medical examiner when such person is determining
28 the cause of death of a child.

29 (7) The state child death review board established under K.S.A. 22a-
30 243, and amendments thereto.

31 (8) An attorney for a private party who files a petition pursuant to
32 subsection (b) of K.S.A. 2013 Supp. 38-2233, and amendments thereto.

33 (9) A foster parent, prospective foster parent, permanent custodian,
34 prospective permanent custodian, adoptive parent or prospective adoptive
35 parent. In order to assist such persons in making an informed decision
36 regarding acceptance of a particular child, to help the family anticipate
37 problems which may occur during the child's placement, and to help the
38 family meet the needs of the child in a constructive manner, the secretary
39 shall seek and shall provide the following information to such person's as
40 the information becomes available to the secretary:

41 (A) Strengths, needs and general behavior of the child, *including, but*
42 *not limited to, any information from previous placements which would*
43 *indicate that the child or children may have a propensity to cause violence*

1 *to any member of the family foster home, including pets;*

2 (B) *circumstances which necessitated placement, including, but not*
3 *limited to, a listing of previous placements and contact information for*
4 *previous placement providers;*

5 (C) *information about the child's family and the child's relationship to*
6 *the family which may affect the placement, including, but not limited to,*
7 *potential relative placement options, any known history of previously born*
8 *siblings in this state or any other; the case plan, any family history of*
9 *mental or physical illness, criminal background of the child's family and*
10 *any other information which is pertinent to the care and needs of the child*
11 *and to protect the foster or adoptive family;*

12 (D) *important life experiences and relationships which may affect the*
13 *child's feelings, behavior, attitudes or adjustment, including, but not*
14 *limited to, any history of sexual abuse of the child or sexual abuse*
15 *perpetrated by the child, and any criminal background of the child;*

16 (E) *medical history of the child, including, but not limited to, full*
17 *disclosure of all medical, psychological and psychiatric conditions of the*
18 *child and any information on third-party coverage which may be available*
19 *to the child; and*

20 (F) *education history, to include including, but not limited to, present*
21 *grade placement, special strengths and weaknesses, previous educational*
22 *testing and the presence or absence of an individualized education*
23 *program or plans for the provision of a free appropriate public education.*

24 (10) *The state protection and advocacy agency as provided by*
25 *subsection (a)(10) of K.S.A. 65-5603 or subsection (a)(2)(A) and (B) of*
26 *K.S.A. 74-5515, and amendments thereto.*

27 (11) *Any educational institution to the extent necessary to enable the*
28 *educational institution to provide the safest possible environment for its*
29 *pupils and employees.*

30 (12) *Any educator to the extent necessary to enable the educator to*
31 *protect the personal safety of the educator and the educator's pupils.*

32 (13) *Any other federal, state or local government executive branch*
33 *entity or any agent of such entity, having a need for such information in*
34 *order to carry out such entity's responsibilities under the law to protect*
35 *children from abuse and neglect.*

36 (d) *Specified access.* *The following persons or entities shall have*
37 *access to information contained in agency records as specified.*
38 *Information authorized to be disclosed pursuant to this subsection shall not*
39 *contain information which identifies a reporter of a child who is alleged or*
40 *adjudicated to be a child in need of care.*

41 (1) *Information from confidential agency records of the department*
42 *of social and rehabilitation services for children and families, a law*
43 *enforcement agency or any juvenile intake and assessment worker of a*

1 child alleged or adjudicated to be in need of care shall be available to
2 members of the standing house or senate committee on judiciary, house
3 committee on corrections and juvenile justice, house committee on
4 appropriations, senate committee on ways and means, legislative post audit
5 committee and any joint committee with authority to consider children's
6 and families' issues, when carrying out such member's or committee's
7 official functions in accordance with K.S.A. 75-4319, and amendments
8 thereto, in a closed or executive meeting. Except in limited conditions
9 established by $\frac{2}{3}$ of the members of such committee, records and reports
10 received by the committee shall not be further disclosed. Unauthorized
11 disclosure may subject such member to discipline or censure from the
12 house of representatives or senate. The secretary of ~~social and~~
13 ~~rehabilitation services for children and families~~ shall not summarize the
14 outcome of department actions regarding a child alleged to be a child in
15 need of care in information available to members of such committees.

16 (2) The secretary of ~~social and rehabilitation services for children~~
17 ~~and families~~ may summarize the outcome of department actions regarding
18 a child alleged to be a child in need of care to a person having made such
19 report.

20 (3) Information from confidential reports or records of a child alleged
21 or adjudicated to be a child in need of care may be disclosed to the public
22 when:

23 (A) The individuals involved or their representatives have given
24 express written consent; or

25 (B) the investigation of the abuse or neglect of the child or the filing
26 of a petition alleging a child to be in need of care has become public
27 knowledge, provided, however, that the agency shall limit disclosure to
28 confirmation of procedural details relating to the handling of the case by
29 professionals.

30 (e) *Court order.* Notwithstanding the provisions of this section, a
31 court of competent jurisdiction, after in camera inspection, may order
32 disclosure of confidential agency records pursuant to a determination that
33 the disclosure is in the best interests of the child who is the subject of the
34 reports or that the records are necessary for the proceedings of the court
35 and otherwise admissible as evidence. The court shall specify the terms of
36 disclosure and impose appropriate limitations.

37 (f) (1) Notwithstanding any other provision of law to the contrary,
38 except as provided in paragraph (4), in the event that child abuse or
39 neglect results in a child fatality or near fatality, reports or records of a
40 child alleged or adjudicated to be in need of care received by the secretary,
41 a law enforcement agency or any juvenile intake and assessment worker
42 shall become a public record and subject to disclosure pursuant to K.S.A.
43 45-215, and amendments thereto.

1 (2) Within seven days of receipt of a request in accordance with the
2 procedures adopted under K.S.A. 45-220, and amendments thereto, the
3 secretary shall notify any affected individual that an open records request
4 has been made concerning such records. The secretary or any affected
5 individual may file a motion requesting the court to prevent disclosure of
6 such record or report, or any select portion thereof. If the affected
7 individual does not file such motion within seven days of notification, and
8 the secretary has not filed a motion, the secretary shall release the reports
9 or records. If such motion is filed, the court shall consider the effect such
10 disclosure may have upon an ongoing criminal investigation, a pending
11 prosecution, or the privacy of the child, if living, or the child's siblings,
12 parents or guardians. The court shall make written findings on the record
13 justifying the closing of the records and shall provide a copy of the journal
14 entry to the affected parties and the individual requesting disclosure
15 pursuant to the Kansas open records act, K.S.A. 45-215 et seq., and
16 amendments thereto.

17 (3) For reports or records requested pursuant to this subsection, the
18 time limitations specified in this subsection shall control to the extent of
19 any inconsistency between this subsection and K.S.A. 45-218, and
20 amendments thereto. As used in this section, "near fatality" means an act
21 that, as certified by a person licensed to practice medicine and surgery,
22 places the child in serious or critical condition.

23 (4) Nothing in this subsection shall allow the disclosure of reports,
24 records or documents concerning the child and such child's biological
25 parents which were created prior to such child's adoption. Nothing herein
26 is intended to require that an otherwise privileged communication lose its
27 privileged character.

28 Sec. 6. K.S.A. 2013 Supp. 38-2213 is hereby amended to read as
29 follows: 38-2213. (a) *Principle of limited disclosure.* Information
30 contained in confidential law enforcement records concerning a child
31 alleged or adjudicated to be in need of care may be disclosed as provided
32 in this section. Disclosure shall in all cases be guided by the principle of
33 providing access only to persons or entities with a need for information
34 that is directly related to achieving the purposes of this code.

35 (b) *Free exchange of information.* Pursuant to K.S.A. 2013 Supp. 38-
36 2210, and amendments thereto, a law enforcement agency shall participate
37 in the free exchange of information concerning a child who is alleged or
38 adjudicated to be in need of care.

39 (c) *Access to information in law enforcement records.* In order to
40 discharge their official duties, the following persons or entities shall have
41 access to confidential law enforcement records concerning a child alleged
42 or adjudicated to be in need of care.

43 (1) The court having jurisdiction over the proceedings, including the

1 presiding judge and any court personnel designated by the judge.

2 (2) The secretary.

3 (3) The commissioner of juvenile justice.

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

6 (5) Any juvenile intake and assessment worker.

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

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

12 (8) Persons or entities allowed access pursuant to subsection (f) of
13 K.S.A. 2013 Supp. 38-2212, and amendments thereto.

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

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

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

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

41 (e) *Legislative access.* Information from law enforcement records of a
42 child alleged or adjudicated to be in need of care shall be available to
43 members of the standing house or senate committee on judiciary, house

1 committee on corrections and juvenile justice, house committee on
2 appropriations, senate committee on ways and means, legislative post audit
3 committee and any joint committee with authority to consider children's
4 and families' issues, when carrying out such member's or committee's
5 official functions in accordance with K.S.A. 75-4319, and amendments
6 thereto, in a closed or executive meeting. Except in limited conditions
7 established by $\frac{2}{3}$ of the members of such committee, records and reports
8 received by the committee shall not be further disclosed. Unauthorized
9 disclosure may subject such member to discipline or censure from the
10 house of representatives or senate.

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

18 Sec. 7. K.S.A. 2013 Supp. 38-2258 is hereby amended to read as
19 follows: 38-2258. (a) Except as provided in K.S.A. 2013 Supp. 38-2255(d)
20 (2) and 38-2259, and amendments thereto, if a child has been in the same
21 foster home or shelter facility for ~~six~~ *three* months or longer, or has been
22 placed by the secretary in the home of a parent or relative, the secretary
23 shall give *30 days'* written notice of any plan to move the child to a
24 different placement ~~unless the move is to the selected preadoptive family~~
25 ~~for the purpose of facilitating adoption.~~ The notice shall be given to: (1)
26 The court having jurisdiction over the child; (2) the petitioner; (3) the
27 attorney for the parents, if any; (4) each parent whose address is available;
28 (5) the foster parent or custodian from whose home or shelter facility it is
29 proposed to remove the child; (6) the child, if 12 or more years of age; (7)
30 the child's guardian ad litem; (8) any other party or interested party; and
31 (9) the child's court appointed special advocate.

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

38 (c) Within 14 days after receipt of the notice, any person enumerated
39 in subsection (a)(2) through (8) receiving notice as provided above may
40 request, either orally or in writing, that the court conduct a hearing to
41 determine whether or not the change in placement is in the best interests of
42 the child concerned. When the request has been received, the court shall
43 schedule a hearing and immediately notify the secretary of the request and

1 the time and date the matter will be heard. The court shall give notice of
2 the hearing to persons enumerated in subsection (a)(2) through (9). If the
3 court does not receive a request for hearing within the specified time, the
4 change in placement may occur prior to the expiration of the 30 days. The
5 secretary shall not change the placement of the child, ~~except for the~~
6 ~~purpose of adoption~~, unless the change is approved by the court.

7 (d) When, after the notice set out above, a child in the custody of the
8 secretary is removed from the home of a parent after having been placed in
9 the home of a parent for a period of six months or longer, the secretary
10 shall request a finding that: (1) (A) The child is likely to sustain harm if
11 not immediately removed from the home;

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

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

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

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

27 Sec. 8. K.S.A. 2013 Supp. 38-2259 is hereby amended to read as
28 follows: 38-2259. (a) When an emergency exists requiring immediate
29 action to assure the safety and protection of the child or the secretary is
30 notified that the foster parents or shelter facility refuse to allow the child to
31 remain, the secretary may transfer the child to another foster home or
32 shelter facility without prior court approval. The secretary shall notify the
33 court of the action at the earliest practical time. When the child is removed
34 from the home of a parent *or a foster parent* after having been placed in
35 the home for a period of six months or longer, the secretary shall present to
36 the court in writing the specific nature of the emergency and reasons why
37 it is contrary to the welfare of the child to remain in the placement and
38 request a finding by the court whether remaining in the home is contrary to
39 the welfare of the child. If the court enters an order the court shall make a
40 finding as to whether an emergency exists. The court shall provide the
41 secretary with a copy of the order. In making the finding, the court may
42 rely on documentation submitted by the secretary or may set the date for a
43 hearing on the matter. If the secretary requests such a finding, the court

1 shall provide the secretary with a written copy of the finding by the court
2 not more than 45 days from the date of the request.

3 (b) The court shall not enter an order approving the removal of a
4 child from the home of a parent pursuant to this section unless the court
5 first finds probable cause that: (1) (A) The child is likely to sustain harm if
6 not immediately removed from the home;

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

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

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

14 Sec. 9. K.S.A. 2013 Supp. 38-2270 is hereby amended to read as
15 follows: 38-2270. (a) When parental rights have been terminated and it
16 appears that adoption is a viable alternative, the court shall enter one of the
17 following orders:

18 (1) An order granting custody of the child, for adoption proceedings,
19 to the secretary or a corporation organized under the laws of the state of
20 Kansas authorized to care for and surrender children for adoption as
21 provided in K.S.A. 38-112 et seq., and amendments thereto. The person,
22 secretary or corporation shall have authority to place the child in a family
23 home, and give consent for the legal adoption of the child which shall be
24 the only consent required to authorize the entry of an order or decree of
25 adoption.

26 (2) An order granting custody of the child to proposed adoptive
27 parents and consenting to the adoption of the child by the proposed
28 adoptive parents.

29 (b) In making an order under subsection (a), the court shall give
30 preference, to the extent that the court finds it is in the best interests of the
31 child, first to granting such custody for adoption to a relative of the child
32 *within the third degree, to include the adoptive parents of previously born*
33 *siblings of the child*, and second to granting such custody to a person with
34 whom the child has close emotional ties *giving preference to a foster*
35 *parent who has had physical custody of the child for six months or longer.*

36 (c) *Discharge upon adoption.* When an adoption decree has been filed
37 with the court in the child in need of care case, the secretary's custody shall
38 cease, the court's jurisdiction over the child shall cease and the court shall
39 enter an order to that effect.

40 Sec. 10. K.S.A. 2013 Supp. 38-2210, 38-2212, 38-2213, 38-2258, 38-
41 2259 and 38-2270 are hereby repealed.

42 Sec. 11. This act shall take effect and be in force from and after its
43 publication in the statute book.