AN ACT concerning children and minors; enacting the Kansas foster parents' bill of rights act; relating to foster care; family foster homes; amending K.S.A. 2013 Supp. 38-2212, 38-2213 and 38-2258 and repealing the existing sections.

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

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

(b) (1) The Kansas department for children and families and department of health and environment recognize that foster parents play an integral role in the state's effort to care for dependent children displaced from their homes. Foster parents have the right to be treated by the Kansas department for children and families, department of health and environment and other partners in the care of abused and neglected children with dignity, respect and trust as a provider of foster care. Foster parents shall treat all children in their care, each child's birth family and all members of the child professional team with dignity and respect.

(2) The department of health and environment shall provide written notification of the rights enumerated in this section to foster parents at the time of initial licensure and at the time of each licensure renewal following the initial licensure period.

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

(c) (1) The Kansas department for children and families shall provide foster parents with pre-service training. The Kansas department for children and families, department of health and environment or the child placement agency shall provide training at appropriate intervals to meet mutually assessed needs of the child and to improve foster parent skills.

(2) The Kansas department for children and families shall provide to foster parents, prior to and during placement, information which is pertinent to the care and needs of the child and to protect the foster family to the extent allowed under state and federal law. The Kansas department for children and families shall provide foster parents information regarding the number of times a child has been removed and the reasons therefor, to
the extent permitted by law, and may also provide the names and phone
numbers of the previous foster parents if the previous foster parents have
authorized such release.
(3) The Kansas department for children and families will, when
appropriate and feasible, arrange for pre-placement visits between foster
children and family foster home parents.
(4) Foster parents may ask questions about the child's case plan,
encourage a placement or refuse a placement. In the event foster parents
refuse a placement, such refusal shall not serve as the sole determining
factor with respect to a subsequent placement of a child with such foster
parents when such placement is in the best interests of the child. After a
placement of a child with foster parents, the Kansas department for
children and families shall update the foster parents as new relevant
information about the child, the child's parents and other relatives is
gathered.
(5) Foster parents shall be informed in a timely manner by the Kansas
department for children and families of all case plan meetings concerning
the children placed in their homes, and shall be allowed and encouraged to
participate in such meetings and provide input concerning the case plan.
Foster parents shall be informed by the Kansas department of health and
environment concerning their licensure as a family foster home.
(6) The Kansas department for children and families will, when
appropriate and feasible, establish reasonably accessible respite care for
children in foster care for short periods of time, in consultation with the
foster parents. Foster parents shall follow all policies and procedures
established by the Kansas department for children and families for
requesting and using respite care.
(7) Foster parents shall treat all information received from the Kansas
department for children and families about the child and the child's family
as confidential. Information necessary for the medical or psychiatric care
of the child may be provided to the appropriate practitioners. Foster
parents may share information necessary with school personnel in order to
secure a safe and appropriate education for the child. Additionally, foster
parents shall share information they may learn about the child and the
child's family, and concerns that arise in the care of the child, with the
caseworker and other members of the child professional team.
(8) Recognizing that placement changes are difficult and detrimental
to the health and well being of children, foster parents may request all
available information, whenever possible, before deciding whether or not
to accept a child for placement.
(d) (1) Foster parents shall be permitted to continue the practice of
their own family values and routines while respecting the child's cultural
heritage. All discipline shall be consistent with state law and rules and
regulations. Visitations between the child and the child's siblings or biological family should be scheduled at a time that meets the needs of the child, the biological family members and the foster family, whenever possible. Recognizing that visitation is an important right of children in foster care, foster parents shall be flexible and cooperative with family visits. Recognizing the importance of a positive relationship between birth parents and foster parents, whenever possible, foster parents shall assist in assuring frequent and positive parent-child visitation by providing supervision for visits and transporting children to and from visits, all consistent with the child's case plan.

(2) Foster parents shall provide care that is respectful of the child's cultural identity and needs. The Kansas department for children and families shall provide foster parents relevant information on specific religious or cultural practices of the child.

(3) Foster parents shall use discipline methods which are consistent with policies, rules and regulations adopted by the Kansas department for children and families and department of health and environment.

(e) (1) Upon request by a former foster parent, the department for children and families shall provide general information, if available, on the child's progress if the child is at the time of the request in the custody of the secretary for children and families and provision of such information is agreed to by the child and the child's placement.

(2) Recognizing the importance of placement stability to the health and well-being of children, foster parents shall be given 30 days' written notice of any plan to move a child in their care to a different placement in accordance with K.S.A. 2013 Supp. 38-2258, and amendments thereto.

(3) Foster parents have the right to be considered, when appropriate, as a placement option when a child who was formerly placed with the foster parents has re-entered the child welfare system.

(4) If a foster child becomes free for adoption and the foster parents desire to adopt the child, they shall inform the caseworker in a timely manner. If they do not choose to pursue adoption, foster parents shall make every effort to support and encourage the child's placement in a permanent home, including, but not limited to, providing information on the history and care needs of the child and accommodating transitional visitation.

(f) Foster parents shall be informed in advance of all court hearings and reviews pertaining to a child in their care, and shall be informed of their right to attend and participate as allowable by applicable state and federal law. Foster parents have the right to complete the foster parent court report form and submit such form to the court.

(g) (1) Foster parents have access to the appeals and grievance processes pursuant to state law and regulations and policies of the Kansas department for children and families and department of health and
environment.

(2) Foster parents have the right to contact the Kansas department for children and families or department of health and environment regarding any concerns or grievances about management decisions or delivery of service issues.

(h) Foster parents shall have access to policies of the Kansas department for children and families which are posted on the agency's website. Foster parents shall have access to rules and regulations regarding their licensure which are posted on the Kansas department of health and environment website. Foster parents shall comply with the licensure requirements and policies of their licensing agency and child placing agency.

(i) For the purposes of this section, foster parent means a resource family providing care to children in foster care in a family foster home, as defined in section 2, and amendments thereto.

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

New Sec. 2. (a) A family foster home is a child care facility that is a private residence, including any adjacent grounds, in which a licensee provides care for 24 hours a day for one or more children in foster care and for which a license is required under the provisions of K.S.A. 65-501 et seq., and amendments thereto.

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

Sec. 3. K.S.A. 2013 Supp. 38-2212 is hereby amended to read as follows: 38-2212. (a) Principle of appropriate access. Information contained in confidential agency records concerning a child alleged or adjudicated to be in need of care may be disclosed as provided in this section. Disclosure shall in all cases be guided by the principle of providing access only to persons or entities with a need for information that is directly related to achieving the purposes of this code.

(b) Free exchange of information. Pursuant to K.S.A. 2013 Supp. 38-2210, and amendments thereto, the secretary and juvenile intake and assessment agencies shall participate in the free exchange of information concerning a child who is alleged or adjudicated to be in need of care.

(c) Necessary access. The following persons or entities shall have access to information from agency records. Access shall be limited to information reasonably necessary to carry out their lawful responsibilities, to maintain their personal safety and the personal safety of individuals in their care, or to educate, diagnose, treat, care for or protect a child alleged to be in need of care. Information authorized to be disclosed pursuant to this subsection shall not contain information which identifies a reporter of a child who is alleged or adjudicated to be a child in need of care.
(1) A child named in the report or records, a guardian ad litem appointed for the child and the child's attorney.

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

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

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

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

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

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

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

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

(A) Strengths, needs and general behavior of the child;

(B) circumstances which necessitated placement;

(C) information about the child's family and the child's relationship to the family which may affect the placement;

(D) important life experiences and relationships which may affect the child's feelings, behavior, attitudes or adjustment;

(E) medical history of the child, including third-party coverage which may be available to the child; and

(F) education history, to include including present grade placement, special strengths and weaknesses.

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

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

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

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

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

(1) Information from confidential agency records of the department of social and rehabilitation services for children and families, a law enforcement agency or any juvenile intake and assessment worker of a child alleged or adjudicated to be in need of care shall be available to members of the standing house or senate committee on judiciary, house committee on corrections and juvenile justice, house committee on appropriations, senate committee on ways and means, legislative post audit committee and any joint committee with authority to consider children's and families' issues, when carrying out such member's or committee's official functions in accordance with K.S.A. 75-4319, and amendments thereto, in a closed or executive meeting. Except in limited conditions established by 2/3 of the members of such committee, records and reports received by the committee shall not be further disclosed. Unauthorized disclosure may subject such member to discipline or censure from the house of representatives or senate. The secretary of social and rehabilitation services for children and families shall not summarize the outcome of department actions regarding a child alleged to be a child in need of care in information available to members of such committees.

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

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

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

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

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

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

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

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

(4) Nothing in this subsection shall allow the disclosure of reports, records or documents concerning the child and such child's biological parents which were created prior to such child's adoption. Nothing herein is intended to require that an otherwise privileged communication lose its privileged character.
Sec. 4. K.S.A. 2013 Supp. 38-2213 is hereby amended to read as follows: 38-2213. (a) **Principle of limited disclosure.** Information contained in confidential law enforcement records concerning a child alleged or adjudicated to be in need of care may be disclosed as provided in this section. Disclosure shall in all cases be guided by the principle of providing access only to persons or entities with a need for information that is directly related to achieving the purposes of this code.

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

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

   (1) The court having jurisdiction over the proceedings, including the presiding judge and any court personnel designated by the judge.
   (2) The secretary.
   (3) The commissioner of juvenile justice.
   (4) Law enforcement officers or county or district attorneys or their staff.
   (5) Any juvenile intake and assessment worker.
   (6) Members of a court-appointed multidisciplinary team.
   (7) Any other federal, state or local government executive branch entity, or any agent of such entity, having a need for such information in order to carry out such entity's responsibilities under law to protect children from abuse and neglect.
   (8) Persons or entities allowed access pursuant to subsection (f) of K.S.A. 2013 Supp. 38-2212, and amendments thereto.

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

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

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

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

(e) Legislative access. Information from law enforcement records of a
child alleged or adjudicated to be in need of care shall be available to
members of the standing house or senate committee on judiciary, house
committee on corrections and juvenile justice, house committee on
appropriations, senate committee on ways and means, legislative post audit
committee and any joint committee with authority to consider children's
and families' issues, when carrying out such member's or committee's
official functions in accordance with K.S.A. 75-4319, and amendments
thereto, in a closed or executive meeting. Except in limited conditions
established by 2/3 of the members of such committee, records and reports
received by the committee shall not be further disclosed. Unauthorized
disclosure may subject such member to discipline or censure from the
house of representatives or senate.

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

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

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

(c) Within 14 days after receipt of the notice, any person enumerated in subsection (a)(2) through (8) receiving notice as provided above may request, either orally or in writing, that the court conduct a hearing to determine whether or not the change in placement is in the best interests of the child concerned. When the request has been received, the court shall schedule a hearing and immediately notify the secretary of the request and the time and date the matter will be heard. The court shall give notice of the hearing to persons enumerated in subsection (a)(2) through (9). If the court does not receive a request for hearing within the specified time, the change in placement may occur prior to the expiration of the 30 days. The secretary shall not change the placement of the child, except for the purpose of adoption, unless the change is approved by the court.

(d) When, after the notice set out above, a child in the custody of the secretary is removed from the home of a parent after having been placed in the home of a parent for a period of six months or longer, the secretary shall request a finding that: (1) (A) The child is likely to sustain harm if not immediately removed from the home; (B) allowing the child to remain in home is contrary to the welfare of the child; or (C) immediate placement of the child is in the best interest of the child; and

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

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

Sec. 6. K.S.A. 2013 Supp. 38-2212, 38-2213 and 38-2258 are hereby repealed.
Sec. 7. This act shall take effect and be in force from and after its publication in the statute book.