

Senate Substitute for HOUSE BILL No. 2112

By Committee on Judiciary

3-11

1 AN ACT concerning children and families; enacting the host families act;
2 relating to temporary care for children.

3
4 *Be it enacted by the Legislature of the State of Kansas:*

5 Section 1. Sections 1 through 5, and amendments thereto, shall be
6 known and may be cited as the host families act.

7 Sec. 2. As used in the host families act:

8 (a) "Charitable organization" has the same meaning as defined in
9 K.S.A. 17-1760, and amendments thereto.

10 (b) "Child placement agency" means a business or service conducted,
11 maintained or operated by a person engaged in finding homes for children
12 by placing or arranging for the placement of such children for adoption or
13 foster care, licensed by the state of Kansas pursuant to K.S.A. 65-501, and
14 amendments thereto.

15 (c) "Host family" means an individual or family to whom powers are
16 delegated for the temporary care of a child under this act.

17 (d) "Parent," when used in relation to a child or children, includes a
18 guardian and every person who is by law liable to maintain, care for or
19 support the child.

20 (e) "Serving parent" means a parent who is a member of the reserves
21 of the army, navy, air force, marine corps or coast guard of the United
22 States or the commissioned corps of the national oceanic and atmospheric
23 administration or the public health service of the United States department
24 of health and human services detailed by proper authority for duty with the
25 army or navy of the United States, or who is required to enter or serve in
26 the active military service of the United States under a call or order of the
27 president of the United States or to serve on state active duty.

28 Sec. 3. (a) (1) A parent or legal custodian of a child may by a properly
29 executed power of attorney provided in section 5, and amendments
30 thereto, delegate to another person known as the host family, for a period
31 not to exceed one year, except as provided in subsection (f), any of the
32 powers regarding the care and custody of the child, except the power to
33 consent to marriage or adoption of the child, the performance or
34 inducement of an abortion on or for the child, or the termination of
35 parental rights to the child. A power of attorney executed under this act
36 may be extended for one additional year following the expiration of the

1 original one-year term.

2 (2) A delegation of powers under this section shall not deprive any
3 parent or legal custodian of any parental rights or legal authority regarding
4 the care and custody of the child nor supersede any court order regarding
5 the care and custody of the child.

6 (b) The parent or legal custodian of the child shall have the authority
7 to revoke or withdraw the power of attorney authorized by subsection (a)
8 at any time. Except as provided in subsection (f), if there is a need for the
9 delegation of authority to last longer than one year, the parent or legal
10 custodian of the child may execute a new power of attorney for one
11 additional year. If a parent withdraws or revokes the power of attorney, the
12 child shall be returned to the custody of the parents as soon as reasonably
13 possible.

14 (c) Unless the authority is revoked or withdrawn by the parent, the
15 host family shall exercise parental or legal authority on a continuous basis
16 without compensation, except as provided in section 4(b)(2), and
17 amendments thereto, for the duration of the power of attorney authorized
18 by subsection (a) and shall not be subject to any laws or rules or
19 regulations dealing with the licensing or regulation of foster care homes.

20 (d) (1) Except as otherwise provided by law, the execution of a power
21 of attorney by a parent or legal custodian, as authorized in subsection (a),
22 shall not constitute abandonment, abuse or neglect as defined in K.S.A.
23 2015 Supp. 38-2202, and amendments thereto, unless the parent or legal
24 custodian fails to take custody of the child or execute a new power of
25 attorney after the one-year time limit has elapsed.

26 (2) A parent shall not execute a power of attorney authorized under
27 this act with the intention of permanently avoiding or divesting parental or
28 legal responsibility for the care of the child.

29 (3) Nothing in this section shall be interpreted to preclude any
30 investigation of suspected abuse or neglect by the Kansas department for
31 children and families or law enforcement.

32 (e) Under a delegation of powers as authorized by subsection (a), the
33 child or children subject to the power of attorney shall not be considered as
34 placed in foster care or other out-of-home placement and the parties shall
35 not be subject to any of the requirements or licensing laws, rules and
36 regulations for foster care or other rules and regulations relating to
37 community care for children.

38 (f) A serving parent may delegate the power designated in subsection
39 (a) for a period longer than one year if on active duty service. The term of
40 delegation, however, may not exceed the term of active duty service plus
41 30 days.

42 Sec. 4. (a) A child placement agency, or other Kansas charitable
43 organization working under an agreement with a child placement agency,

1 may establish a program in which it assists parents with providing
2 temporary care for children as provided under this act. Such program shall
3 not be subject to the requirements of any other child care facility licensing
4 statutes, rules and regulations or foster care licensing laws or rules and
5 regulations, except as provided under this act.

6 (b) (1) Prior to the placement of a child, a child placement agency or
7 other Kansas charitable organization establishing a program pursuant to
8 subsection (a) shall conduct a child abuse and neglect screening and a
9 Kansas bureau of investigation criminal history record search on: (A) The
10 person or persons to whom powers regarding the care and custody of the
11 child are delegated through a power of attorney executed under this act;
12 and (B) any employee or volunteer of the child placement agency or
13 charitable organization having contact with children hosted through the
14 program.

15 (2) A host family shall not receive compensation. However,
16 reimbursement for actual expenses of providing temporary care for the
17 child may be voluntarily contributed. Such reimbursement shall not come
18 from the state, but may come from individuals, religious communities or
19 other charitable organizations who voluntarily wish to support the host
20 family.

21 Sec. 5. (a) The Kansas judicial council shall create a form of power of
22 attorney to delegate parental or legal authority consistent with the
23 requirements of section 3, and amendments thereto.

24 (b) The power of attorney is legally sufficient under the host families
25 act if the wording of the form complies substantially with the power of
26 attorney form created by the Kansas judicial council pursuant to
27 subsection (a), the form is properly completed and the signatures of the
28 parties are acknowledged.

29 Sec. 6. During any child protective investigation by the Kansas
30 department for children and families that does not result in an out-of-home
31 placement due to abuse of a child, the department is authorized and
32 encouraged to provide information to the parent or custodian about
33 community service programs that provide respite care, voluntary
34 guardianship or other support services for families in crisis, including
35 organizations that operate programs authorized under section 4, and
36 amendments thereto. In providing information, the department is
37 authorized to exercise its discretion in recommending programs,
38 organizations and resources to the parent or custodian.

39 Sec. 7. Any host family delegated authority under the host families
40 act by a parent or legal custodian is not subject to the requirements of any
41 other child care facility licensing statutes, rules and regulations or foster
42 care licensing laws or rules and regulations, and will not constitute an out-
43 of-home child placement under the child in need of care code, K.S.A. 2015

1 Supp. 38-2201 et seq., and amendments thereto.

2 Sec. 8. The Kansas department for children and families is hereby
3 authorized to work with families who are in financial distress,
4 unemployed, homeless or experiencing other family crises by detailing
5 community resources available to such families in the community,
6 including, but not limited to, respite care, voluntary guardianship under the
7 host families act and information regarding child placement agencies and
8 other charitable organizations that operate programs authorized under
9 section 4, and amendments thereto.

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