

SENATE BILL No. 343

AN ACT concerning persons with disabilities; preserving families that include a parent who is blind; providing for certain considerations relating to cases involving legal custody, residency, parenting time, children in need of care, adoption, foster care and guardianship; relating to statutory terminology; updating the term "hearing impairment" to "hard of hearing" and other related terms concerning persons with hearing loss; amending K.S.A. 19-2698, 36-517, 39-1107, 65-3276, 65-6511, 72-3253, 72-3404, 75-3740, 75-5391, 75-5399 and 76-1001b and K.S.A. 2021 Supp. 50-676 and repealing the existing sections.

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

New Section 1. (a) The purpose of sections 1 through 3, and amendments thereto, is to protect the best interests of children parented by blind individuals or children who could be parented by blind individuals through the establishment of procedural safeguards that require adherence to the federal Americans with disabilities act of 1990, and respect for the due process and equal protection rights of parents and prospective parents who are blind in the context of child welfare, foster care, family law and adoption.

(b) The legislature hereby finds and declares that:

(1) Blind individuals continue to face unfair, preconceived and unnecessary societal biases as well as antiquated attitudes regarding such individuals' ability to successfully parent their children;

(2) blind individuals face these biases and preconceived attitudes in family and dependency law proceedings where legal custody, residency and parenting time are at stake and in public and private adoption, guardianship and foster care proceedings;

(3) because of these societal biases and antiquated attitudes, children of blind parents are unnecessarily being removed from their parents' care or being restricted from enjoying meaningful time with their parents; and

(4) children are being denied the opportunity to enjoy the experience of living in loving homes with blind parents or other blind caretakers.

New Sec. 2. As used in sections 1 through 3, and amendments thereto:

(a) "Blind" or "blindness" means a central visual acuity of 20/200 or less in the better eye with the use of a correcting lens. An eye that has a limitation in the field of vision so that the widest diameter of the visual field subtends an angle no greater than 20 degrees is considered to have a central visual acuity of 20/200 or less. The term "blind" or "blindness" includes any degenerative condition that reasonably can be expected to result in blindness.

(b) "Family foster home" means a child care facility that is a private residence, including any adjacent grounds, where a person provides care for 24 hours per day for one or more children in foster care and for which a license is required under K.S.A. 65-501 et seq., and amendments thereto.

(c) "Supportive parenting services" means services, including, but not limited to, services, aids and supports that may assist a parent or prospective parent who is blind in the effective use of non-visual techniques and other alternative methods to enable the parent or prospective parent to discharge parental responsibilities as successfully as a parent who is not blind.

New Sec. 3. (a) In any action brought under article 22 or article 27 of chapter 23 of the Kansas Statutes Annotated, and amendments thereto:

(1) A parent's blindness shall not serve as a basis for denial or restriction of legal custody, residency or parenting time when such legal custody, residency or parenting time is determined to be otherwise in the best interests of the child;

(2) (A) if a parent's blindness is alleged to not be in the best interests of a child, the party asserting such allegation shall have the burden of proving by clear and convincing evidence that the parent's blindness is not

in the best interests of the child;

(B) if a party asserting an allegation described in subparagraph (A) has satisfied such party's burden of proof, the blind parent shall have the opportunity to present evidence that, with the implementation of supportive parenting services, placement with such parent is in the best interests of the child; and

(C) the court may issue an order requiring that supportive parenting services be implemented, and the parties may request that the court review the need for continuing such supportive parenting services after a reasonable period of time; and

(3) if a court denies or otherwise restricts a blind parent's request for legal custody, residency or parenting time, the court shall make specific findings of fact stating the basis for its decision, including reasons why the provision of supportive parenting services is not a reasonable accommodation that is required to prevent such denial or restriction.

(b) In any action brought under article 21 of chapter 59 of the Kansas Statutes Annotated, and amendments thereto, a prospective parent's blindness shall not serve as a basis for the denial of such prospective parent's participation in any adoption when such adoption is determined to be otherwise in the best interests of the child.

(c) In any action brought under article 30 of chapter 59 of the Kansas Statutes Annotated, and amendments thereto, an individual's blindness shall not serve as a basis for the denial of such individual's appointment as a guardian when such appointment is determined to be otherwise in the best interests of the child.

(d) An individual's blindness shall not serve as a basis for the denial or restriction of such individual's licensure as a family foster home.

(e) (1) In any action brought under article 22 of chapter 38 of the Kansas Statutes Annotated, and amendments thereto, an individual's blindness shall not serve as a basis for an order of temporary custody, adjudication, disposition, finding of unfitness or termination of parental rights.

(2) If a court issues an order of temporary custody, adjudication, disposition, finding of unfitness or termination of parental rights that is adverse to an individual who is a party to the proceeding and who is blind, the court shall make specific findings of fact stating the basis for its decision, including reasons why the provision of supportive parenting services is not a reasonable accommodation that is required to prevent such adverse order.

Sec. 4. K.S.A. 19-2698 is hereby amended to read as follows: 19-2698. (a) The board of county commissioners of any county may levy a tax not to exceed $\frac{1}{2}$ mill on all taxable tangible property within the county for the purpose of assisting in the provision of services for persons with physically handicapping conditions, but such tax shall not be used for the purposes for which a tax is authorized under K.S.A. 12-1680, 19-4004, 19-4011, 65-212 and 65-215, and amendments thereto. The board shall adopt a resolution stating its intent to levy the tax and the purpose therefor. The resolution shall be published once each week for two consecutive weeks in a newspaper of general circulation in the county. If a petition signed by at least 5% of the qualified voters of the county is filed with the county election officer, the board shall submit the proposition for approval by a majority of the qualified voters of the county voting at an election thereon. The election shall be called and held in the manner provided by the general bond law.

(b) If a petition signed by not less than 5% of the registered voters of any county is filed with the county election officer requesting an election on the question of whether a tax levy not to exceed $\frac{1}{2}$ mill on

all taxable tangible property within the county shall be made for the purpose of assisting in the provision of services for persons with physically handicapping conditions, the board of county commissioners shall submit the proposition for approval by a majority of the qualified voters of the county voting at an election thereon. The election shall be called and held in the manner provided by the general bond law. If such proposition is approved, the board of county commissioners shall levy such tax for such purpose. No such tax shall be used for the purposes for which a tax is authorized under K.S.A. 12-1680, 19-4004, 19-4011, 65-212 and 65-215, and amendments thereto.

(c) As used in this section, "physically handicapping condition" means the physical condition of a person, whether congenital or acquired by accident, injury or disease—~~which~~ *that* constitutes a substantial disability, including but not limited to blindness and hearing ~~impairments~~ *loss*.

Sec. 5. K.S.A. 36-517 is hereby amended to read as follows: 36-517. Every licensed lodging establishment designated as a hotel shall provide at no additional charge to deaf ~~and hearing-impaired~~ *or hard of hearing* guests, upon request of such guests, portable smoke detectors of the type suitable for providing visual warning to such guests, or a room equipped with fixed visual warning smoke detectors or a ground floor guest room accessible to the out-of-doors. Each licensed lodging establishment designated as a hotel shall have available for such guests not less than one portable visual warning smoke detector, or one room equipped with a fixed visual warning smoke detector or one ground floor guest room accessible to the out-of-doors for each 50 guest rooms of such lodging establishment, except that no such lodging establishment designated as a hotel shall be required to have more than a total of six portable visual warning smoke detectors, or six rooms equipped with fixed visual warning smoke detectors or six ground floor guest rooms accessible to the out-of-doors nor shall any such lodging establishment have less than one such smoke detector, or one room equipped with a fixed visual warning smoke detector or one ground floor guest room accessible to the out-of-doors.

Sec. 6. K.S.A. 39-1107 is hereby amended to read as follows: 39-1107. Every ~~hearing-impaired~~ *person who is deaf or hard of hearing* has the right to be accompanied by a hearing assistance dog, specially selected, trained and tested for the purpose of hearing assistance, in or upon any of the places listed in K.S.A. 39-1101, and amendments thereto, in the acquisition and use of rental, residential housing and in the purchase and use of residential housing without being required to pay an extra charge for the hearing assistance dog. The ~~hearing-impaired~~ *person who is deaf or hard of hearing* shall be liable for any damage done to the premises or facilities by such dog.

Sec. 7. K.S.A. 2021 Supp. 50-676 is hereby amended to read as follows: 50-676. As used in K.S.A. 50-676 through 50-679, and amendments thereto:

- (a) "Elder person" means a person who is 60 years of age or older.
- (b) "Disabled person" means a person who has physical or mental impairment, or both, ~~which~~ *that* substantially limits one or more of such person's major life activities.
- (c) "Immediate family member" means parent, child, stepchild or spouse.
- (d) "Major life activities" includes functions such as caring for one's self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning and working.
- (e) "Member of the military" means a member of the armed forces or national guard on active duty or a member of an active reserve unit in the armed forces or national guard.

(f) "Physical or mental impairment" means the following:

(1) Any physiological disorder or condition, cosmetic disfigurement or anatomical loss substantially affecting one or more of the following body systems:

- (A) Neurological;
- (B) musculoskeletal;
- (C) special sense organs;
- (D) respiratory, including speech organs;
- (E) cardiovascular;
- (F) reproductive;
- (G) digestive;
- (H) genitourinary;
- (I) hemic and lymphatic;
- (J) skin; or
- (K) endocrine; or

(2) any mental or psychological disorder, such as intellectual disability, organic brain syndrome, emotional or mental illness and specific learning disabilities.

The term "physical or mental impairment" includes, but is not limited to, ~~such diseases and conditions as~~ orthopedic, ~~visual, speech and hearing impairment~~ *visual, language and hearing disorders*, cerebral palsy, epilepsy, muscular dystrophy, multiple sclerosis, cancer, heart disease, diabetes, intellectual disability and emotional illness.

(g) "Protected consumer" means:

- (1) An elder person;
- (2) a disabled person;
- (3) a veteran;
- (4) the surviving spouse of a veteran;
- (5) a member of the military; and
- (6) an immediate family member of a member of the military.

(h) "Substantially limits" means:

(1) Unable to perform a major life activity that the average person in the general population can perform; or

(2) significantly restricted as to the condition, manner or duration under which an individual can perform a particular major life activity as compared to the condition, manner or duration under which the average person in the general population can perform that same major life activity. Minor temporary ailments or injuries shall not be considered physical or mental impairments ~~which~~ *that* substantially limit a person's major life activities. Minor temporary ailments include, but are not limited to, colds, influenza or sprains or minor injuries.

(i) "Veteran" means a person who has served in the armed forces of the United States ~~of America~~ and separated from the armed forces under honorable conditions.

Sec. 8. K.S.A. 65-3276 is hereby amended to read as follows: 65-3276. (a) The following findings and purpose shall apply to this section:

(1) A mental or physical disability does not diminish an individual's right to ~~health care~~ *healthcare*;

(2) the federal Americans with disabilities act prohibits discrimination against individuals with disabilities, yet many individuals with disabilities still experience discrimination in accessing critical ~~health care~~ *healthcare* services;

(3) in other states nationwide, individuals with mental and physical disabilities have historically been denied life-saving organ transplants based on assumptions that their lives are less worthy, that they are incapable of complying with post-transplantation medical requirements or that they lack adequate support systems to ensure compliance with post-transplantation medical requirements;

(4) although organ transplant centers must consider medical and psychosocial criteria when determining if a patient is suitable to receive an organ transplant, transplant centers that participate in medicare, the state program for medical assistance and other federally funded programs are required to use patient selection criteria that result in a fair and nondiscriminatory distribution of organs; and

(5) state residents in need of organ transplants are entitled to assurances that they will not encounter discrimination on the basis of a disability.

(b) A covered entity may not solely on the basis of an individual's disability:

(1) Consider a qualified individual ineligible to receive an anatomical gift or organ transplant;

(2) deny medical and other services related to organ transplantation, including evaluation, surgery, counseling, and post-transplantation treatment and services;

(3) refuse to refer the individual to a transplant center or a related specialist for the purpose of evaluation or receipt of an organ transplant;

(4) refuse to place a qualified individual on an organ transplant waiting list; or

(5) place a qualified individual at a lower-priority position on an organ transplant waiting list than the position at which the qualified individual would have been placed if not for the disability.

(c) (1) Subject to paragraph (2) ~~of this subsection~~, a covered entity may take an individual's disability into account when making treatment or coverage recommendations or decisions, solely to the extent that the disability has been found by a physician, following an individualized evaluation of the individual, to be medically significant to the provision of the anatomical gift.

(2) If an individual has the necessary support system to assist the individual in complying with post-transplantation medical requirements, a covered entity may not consider the individual's inability to independently comply with the post-transplantation medical requirements to be medically significant for the purposes of paragraph (1) ~~of this subsection~~.

(d) A covered entity shall make reasonable modifications in policies, practices or procedures, when the modifications are necessary to allow an individual with a disability access to services, including transplantation-related counseling, information, coverage or treatment, unless the covered entity can demonstrate that making the modifications would fundamentally alter the nature of the services.

(e) A covered entity shall take such steps as may be necessary to ensure that an individual with a disability is not denied services, including transplantation-related counseling, information, coverage or treatment, due to the absence of auxiliary aids and services, unless the covered entity can demonstrate that taking the steps would fundamentally alter the nature of the services being offered or would result in an undue burden.

(f) Nothing in this section shall be construed to require a covered entity to make a referral or recommendation for or perform a medically inappropriate organ transplant.

(g) (1) If a covered entity violates this section, the affected individual may bring an action in the appropriate district court for injunctive or other equitable relief.

(2) In an action brought under paragraph (1) ~~of this subsection~~, the district court shall:

(A) Schedule a hearing as soon as possible; and

(B) apply the same standards in rendering a judgment in the action

as would be applied in an action brought in federal court under the federal Americans with disabilities act.

(h) As used in this section:

(1) "Anatomical gift" means the donation of all or part of a human body to take effect after the donor's death for the purpose of transplantation or transfusion.

(2) "Auxiliary aids and services" includes:

(A) Qualified interpreters or other effective methods of making aurally delivered materials available to individuals ~~with hearing impairments~~ *who are deaf or hard of hearing*;

(B) qualified readers, taped texts, texts in accessible electronic format or other effective methods of making visually delivered materials available to individuals with visual impairments; and

(C) supported decision-making services, including:

(i) The use of a support individual to assist in making medical decisions, communicating information to the individual or ascertaining an individual's wishes;

(ii) the provision of information to a person designated by the individual consistent with the federal health insurance portability and accountability act and other applicable laws and regulations governing the disclosure of health information;

(iii) if an individual has a court-appointed guardian or other individual responsible for making medical decisions on behalf of the individual, any measures used to ensure that the individual is included in decisions involving the individual's ~~health care~~ *healthcare* and that medical decisions are in accordance with the individual's own expressed interests; and

(iv) any other aid or service that is used to provide information in a format that is easily understandable and accessible to individuals with cognitive, neurological, developmental or intellectual disabilities.

(3) "Covered entity" means:

(A) A licensed ~~health care~~ *healthcare* provider, as defined in K.S.A. 40-3401, and amendments thereto;

(B) a medical care facility as defined in K.S.A. 65-425, and amendments thereto;

(C) a laboratory;

(D) a state psychiatric hospital, as defined in K.S.A. 59-2946, and amendments thereto;

(E) an adult care home, as defined in K.S.A. 65-3501, and amendments thereto;

(F) a group home as defined in K.S.A. 12-736, and amendments thereto;

(G) an institutional medical unit in a correctional facility; or

~~(H)~~*(H)* any entity responsible for potential recipients of the anatomical gift.

(4) "Disability" has the meaning stated in the federal Americans with disabilities act.

(5) "Organ transplant" means the transplantation or transfusion of a part of a human body into the body of another individual for the purpose of treating or curing a medical condition.

(6) "Qualified individual" means an individual who:

(A) Has a disability; and

(B) meets the essential eligibility requirements for the receipt of an anatomical gift, with or without:

(i) The support networks available to the individual;

(ii) the provision of auxiliary aids and services; or

(iii) reasonable modifications to the policies or practices of a covered entity, including modifications to allow:

(a) Communication with individuals responsible for supporting the

individual with post-surgical and post-transplantation care, including medication; and

(b) the consideration of support networks available to the individual, including family, friends, and home and community based services funded through the state program of medical assistance, or another health plan in which the individual is enrolled, or any program or source of funding available to the individual, in determining whether the individual is able to comply with post-transplantation medical requirements.

Sec. 9. K.S.A. 65-6511 is hereby amended to read as follows: 65-6511. The provisions of this act shall not apply to:

(a) Personnel employed by the United States government;

(b) ~~health care~~ *healthcare* providers as defined by K.S.A. 65-4921, and amendments thereto, or exempt licensees under the Kansas healing arts act who are providing services within the lawful scope of their authority so long as they do not hold themselves out to the public by a title set forth in K.S.A. 65-6504, and amendments thereto;

(c) persons duly credentialed by this state as a teacher of the deaf or ~~hearing-impaired~~ *hard of hearing* who are providing services within the lawful scope of their authority so long as they do not hold themselves out to the public by a title set forth in K.S.A. 65-6504, and amendments thereto;

(d) the activities and services of persons pursuing a course of study leading to a degree in speech-language pathology or audiology at a college or university provided that:

(1) These activities and services constitute a part of the organized course of study at that institution;

(2) such persons are designated by a title such as intern, trainee, student, or by other such title clearly indicating the status appropriate to their level of education; and

(3) such persons work under the supervision of a person licensed by this state to practice speech-language pathology or audiology.

(e) an employee or other person under the supervision of a person licensed to practice medicine and surgery in this state so long as such persons do not hold themselves out to the public by a title set forth in K.S.A. 65-6504, and amendments thereto; or

(f) persons licensed or holding a certificate of endorsement to engage in the practice of dispensing and fitting hearing aids under the hearing aid act when practicing under and in accordance with the hearing aid act so long as such persons do not hold themselves out to the public by a title set forth in K.S.A. 65-6504, and amendments thereto.

Sec. 10. K.S.A. 72-3253 is hereby amended to read as follows: 72-3253. The state board of education may provide for the teaching of American sign language in accredited schools and all pupils thereof, whether ~~hearing or hearing-impaired~~, *deaf or hard of hearing*, may be given instruction in American sign language.

Sec. 11. K.S.A. 72-3404 is hereby amended to read as follows: 72-3404. As used in this act:

(a) "School district" means any public school district.

(b) "Board" means the board of education of any school district.

(c) "State board" means the state board of education.

(d) "Department" means the state department of education.

(e) "State institution" means any institution under the jurisdiction of a state agency.

(f) "State agency" means the Kansas department for children and families, the Kansas department for aging and disability services, the department of corrections and the juvenile justice authority.

(g) "Exceptional children" means persons who are children with

disabilities or gifted children and are school age, to be determined in accordance with rules and regulations adopted by the state board, ~~which~~ *whose* age may differ from the ages of children required to attend school under the provisions of K.S.A. 72-3120, and amendments thereto.

(h) "Gifted children" means exceptional children who are determined to be within the gifted category of exceptionality as such category is defined by the state board.

(i) "Special education" means specially designed instruction provided at no cost to parents to meet the unique needs of an exceptional child, including:

(1) Instruction conducted in the classroom, in the home, in hospitals and institutions, and in other settings; and

(2) instruction in physical education.

(j) "Special teacher" means a person, employed by or under contract with a school district or a state institution to provide special education or related services, who is *qualified to*:

(1) ~~Qualified to~~ Provide special education or related services to exceptional children as determined pursuant to standards established by the state board; or

(2) ~~qualified to~~ assist in the provision of special education or related services to exceptional children as determined pursuant to standards established by the state board.

(k) "State plan" means the state plan for special education and related services authorized by this act.

(l) "Agency" means boards and the state agencies.

(m) "Parent" means:

(1) A natural parent;

(2) an adoptive parent;

(3) a person acting as parent;

(4) a legal guardian;

(5) an education advocate; or

(6) a foster parent, if the foster parent has been appointed the education advocate of an exceptional child.

(n) "Person acting as parent" means a person such as a grandparent, stepparent or other relative with whom a child lives or a person other than a parent who is legally responsible for the welfare of a child.

(o) "Education advocate" means a person appointed by the state board in accordance with the provisions of K.S.A. 38-2218, and amendments thereto. A person appointed as an education advocate for a child shall not be:

(1) An employee of the agency ~~which~~ *who* is required by law to provide special education or related services for the child;

(2) an employee of the state board, the department, or any agency ~~which~~ *that* is directly involved in providing educational services for the child; or

(3) any person having a professional or personal interest ~~which~~ *that* would conflict with the interests of the child.

(p) "Free appropriate public education" means special education and related services that:

(1) Are provided at public expense, under public supervision and direction, and without charge;

(2) meet the standards of the state board;

(3) include an appropriate preschool, elementary; or secondary school education; and

(4) are provided in conformity with an individualized education program.

(q) "Federal law" means the individuals with disabilities education

act, as amended.

(r) "Individualized education program" or "IEP" means a written statement for each exceptional child that is developed, reviewed, and revised in accordance with the provisions of K.S.A. 72-3429, and amendments thereto.

(s) (1) "Related services" means transportation, and such developmental, corrective, and other supportive services, including speech-language pathology and audiology services, interpreting services, psychological services, physical and occupational therapy, recreation, including therapeutic recreation, social work services, school nurse services designed to enable a child with a disability to receive a free appropriate public education as described in the child's IEP, counseling services, including rehabilitation counseling, orientation and mobility services, and medical services, except that such medical services shall be for diagnostic and evaluation purposes only, as may be required to assist an exceptional child to benefit from special education, and includes the early identification and assessment of disabling conditions in children.

(2) "Related services" shall not mean any medical device that is surgically implanted or the replacement of any such device.

(t) "Supplementary aids and services" means aids, services, and other supports that are provided in regular education classes or other education-related settings to enable children with disabilities to be educated with nondisabled children to the maximum extent appropriate.

(u) "Individualized education program team" or "IEP team" means a group of individuals composed of:

- (1) The parents of a child;
- (2) at least one regular education teacher of the child; if the child is, or may be, participating in the regular education environment;
- (3) at least one special education teacher or, where appropriate, at least one special education provider of the child;
- (4) a representative of the agency directly involved in providing educational services for the child who *is*:
 - (A) ~~is~~ Qualified to provide; or supervise the provision of; specially designed instruction to meet the unique needs of exceptional children;
 - (B) ~~is~~ knowledgeable about the general curriculum; and
 - (C) ~~is~~ knowledgeable about the availability of resources of the agency;
- (5) an individual who can interpret the instructional implications of evaluation results;
- (6) at the discretion of the parent or the agency, other individuals who have knowledge or special expertise regarding the child, including related services personnel as appropriate; and
- (7) whenever appropriate, the child.

(v) "Evaluation" means a multisourced and multidisciplinary examination, conducted in accordance with the provisions of K.S.A. 72-3428, and amendments thereto, to determine whether a child is an exceptional child.

(w) "Independent educational evaluation" means an examination ~~which~~ *that* is obtained by the parent of an exceptional child and performed by an individual or group of individuals who meet state and local standards to conduct such an examination.

(x) "Elementary school" means any nonprofit institutional day or residential school that offers instruction in any or all of the grades kindergarten through nine.

(y) "Secondary school" means any nonprofit institutional day or residential school that offers instruction in any or all of the grades nine through 12.

(z) "Children with disabilities" means *children who*:

(1) ~~Children with~~ *Have an* intellectual disability, hearing ~~impairments~~ *loss* including deafness, speech or language ~~impairments disorders~~, visual impairments including blindness, emotional disturbance, orthopedic impairments, autism, traumatic brain injury, other health impairments, or specific learning disabilities and who, by reason thereof, need special education and related services; and

(2) ~~children~~ *are* experiencing one or more developmental delays and, by reason thereof, need special education and related services if such children are ages three through nine.

(aa) "Substantial change in placement" means the movement of an exceptional child, for more than 25% of the child's school day, from a less restrictive environment to a more restrictive environment or from a more restrictive environment to a less restrictive environment.

(bb) "Material change in services" means an increase or decrease of 25% or more of the duration or frequency of a special education service, a related service or a supplementary aid or a service specified on the IEP of an exceptional child.

(cc) "Developmental delay" means such a deviation from average development in one or more of the following developmental areas, as determined by appropriate diagnostic instruments and procedures, as indicates that special education and related services are required:

- (1) Physical;
- (2) cognitive;
- (3) adaptive behavior;
- (4) communication; or
- (5) social or emotional development.

(dd) "Homeless children" means "homeless children and youths" as defined in the federal McKinney-Vento homeless assistance act, 42 U.S.C. § 11434a.

(ee) "Limited English proficient" means an individual who meets the qualifications specified in section 9101 of the federal elementary and secondary education act of 1965, as amended.

Sec. 12. K.S.A. 75-3740 is hereby amended to read as follows: 75-3740. (a) Except as provided by K.S.A. 75-3740b, and amendments thereto, and subsections (b) and (k), all contracts and purchases made by or under the supervision of the director of purchases or any state agency for which competitive bids are required shall be awarded to the lowest responsible bidder, taking into consideration conformity with the specifications, terms of delivery, and other conditions imposed in the call for bids.

(b) A contract shall be awarded to a certified business or disabled veteran business which is also a responsible bidder, whose total bid cost is not more than 10% higher than the lowest competitive bid. Such contract shall contain a promise by the certified business that the percentage of employees that are individuals with disabilities will be maintained throughout the contract term and a condition that the certified business shall not subcontract for goods or services in an aggregate amount of more than 25% of the total bid cost.

(c) The director of purchases shall have power to decide as to the lowest responsible bidder for all purchases, but if:

(1) (A) A responsible bidder purchases from a qualified vendor goods or services on the list certified by the director of purchases pursuant to K.S.A. 75-3317 et seq., and amendments thereto, the dollar amount of such purchases made during the previous fiscal year shall be deducted from the original bid received from such bidder for the purpose of determining the lowest responsible bid, except that such deduction shall not exceed 10% of the original bid received from such bidder; or

(B) a responsible bidder purchases from a certified business the

dollar amount of such purchases made during the previous fiscal year shall be deducted from the original bid received from such bidder for the purpose of determining the lowest responsible bid, except that such deduction shall not exceed 10% of the original bid received from such bidder;

(2) the dollar amount of the bid received from the lowest responsible bidder from within the state is identical to the dollar amount of the bid received from the lowest responsible bidder from without the state, the contract shall be awarded to the bidder from within the state; and

(3) in the case of bids for paper products specified in K.S.A. 75-3740b, and amendments thereto, the dollar amounts of the bids received from two or more lowest responsible bidders are identical, the contract shall be awarded to the bidder whose bid is for those paper products containing the highest percentage of recycled materials.

(d) (1) Any or all bids may be rejected, and a bid shall be rejected if it contains any material alteration or erasure made after the bid is opened. The director of purchases may reject the bid of any bidder who is in arrears on taxes due the state, who is not properly registered to collect and remit taxes due the state or who has failed to perform satisfactorily on a previous contract with the state. The secretary of revenue is hereby authorized to exchange such information with the director of purchases as is necessary to effectuate the preceding sentence notwithstanding any other provision of law prohibiting disclosure of the contents of taxpayer records or information. Prior to determining the lowest responsible bidder on contracts for construction of buildings or for major repairs or improvements to buildings for state agencies, the director of purchases shall consider *the*:

~~(1) The (A)~~ Criteria and information developed by the secretary of administration, with the advice of the state building advisory commission to rate contractors on the basis of their performance under similar contracts with the state, local governmental entities and private entities, in addition to other criteria and information available; and

~~(2) the (B)~~ recommendations of the project architect, or, if there is no project architect, the recommendations of the secretary of administration or the agency architect for the project as provided in K.S.A. 75-1254, and amendments thereto.

(2) In any case where competitive bids are required and where all bids are rejected, new bids shall be called for as in the first instance, unless otherwise expressly provided by law or the state agency elects not to proceed with the procurement.

(e) Before the awarding of any contract for construction of a building or the making of repairs or improvements upon any building for a state agency, the director of purchases shall receive written approval from the state agency for which the building construction project has been approved, that the bids generally conform with the plans and specifications prepared by the project architect, by the secretary of administration or by the agency architect for the project, as the case may be, so as to avoid error and mistake on the part of the contractors. In all cases where material described in a contract can be obtained from any state institution, the director of purchases shall exclude the same from the contract.

(f) All bids with the names of the bidders and the amounts thereof, together with all documents pertaining to the award of a contract, shall be made a part of a file or record and retained by the director of purchases for five years, unless reproduced as provided in K.S.A. 75-3737, and amendments thereto, and shall be open to public inspection at all reasonable times.

(g) As used in this section:

(1) "Certified business" means any business certified as provided by subsection (l) by the department of administration that is a sole proprietorship, partnership, association or corporation domiciled in Kansas, or any corporation, even if a wholly owned subsidiary of a foreign corporation, that:

(A) Does business primarily in Kansas or substantially all of its production in Kansas;

(B) employs at least 10% of its employees who are individuals with disabilities and reside in Kansas;

(C) offers to contribute at least 75% of the premium cost for individual health insurance coverage for each employee. The department of administration shall require a certification of these facts as a condition to the certified business being awarded a contract pursuant to subsection (b); and

(D) does not employ individuals under a certificate issued by the United States secretary of labor under 29 U.S.C. § 214(c);

(2) "individuals with disabilities" or "individual with a disability" means any individual who:

(A) Is certified by the Kansas department for aging and disability services or by the Kansas department for children and families which administers the rehabilitation services program as having a physical or mental impairment—~~which~~ *that* constitutes a substantial barrier to employment;

(B) works a minimum number of hours per week for a certified business necessary to qualify for health insurance coverage offered pursuant to subsection (g)(1); and

(C) (i) is receiving services, has received services or is eligible to receive services under a home and community based services program, as defined by K.S.A. 39-7,100, and amendments thereto;

(ii) is employed by a charitable organization domiciled in the state of Kansas and exempt from federal income taxation pursuant to section 501(c)(3) of the federal internal revenue code of 1986, as amended; or

(iii) is an individual with a disability pursuant to the disability standards established by the social security administration as determined by the Kansas disability determination services under the Kansas department for children and families;

(3) "physical or mental impairment" means:

(A) Any physiological disorder or condition, cosmetic disfigurement or anatomical loss substantially affecting one or more of the following body systems:

- (i) Neurological;
- (ii) musculoskeletal;
- (iii) special sense organs;
- (iv) respiratory, including speech organs;
- (v) cardiovascular;
- (vi) reproductive;
- (vii) digestive;
- (viii) genitourinary;
- (ix) hemic and lymphatic;
- (x) skin; or
- (xi) endocrine; or

(B) any mental or psychological disorder, such as intellectual disability, organic brain syndrome, mental illness and specific learning disabilities. The term "physical or mental impairment" includes, but is not limited to, ~~such diseases and conditions as~~ orthopedic, ~~visual,~~ *visual,* ~~speech and hearing impairment~~ *visual, language and hearing disorders,* cerebral palsy, epilepsy, muscular dystrophy, multiple sclerosis and intellectual disability; and

(4) "project architect"—~~shall have the meaning ascribed thereto~~

means the same as defined in K.S.A. 75-1251, and amendments thereto;

(5) "disabled veteran" means a person verified by the Kansas commission on veterans affairs office to have served in the armed forces of the United States and who is entitled to compensation for a service-connected disability, according to the laws administered by the *United States department of veterans administration affairs*, or who is entitled to compensation for the loss, or permanent loss of use, of one or both feet or one or both hands, or for permanent visual impairment of both eyes to a prescribed degree;

(6) "disabled veteran business" means a business certified annually by the department of administration that is a sole proprietorship, partnership, association or corporation domiciled in Kansas, or any corporation, even if a wholly owned subsidiary of a foreign corporation, and is verified by the *Kansas* commission on veterans affairs office that:

(A) Not less than 51% is owned by one or more disabled veterans or, in the case of a publicly owned business, not less than 51% of the stock is owned by one or more disabled veterans;

(B) the management and daily business operations are controlled by one or more disabled veterans; and

(C) such business maintains the requirements of subparagraphs (A) and (B) during the entire contract term.

(h) Any state agency authorized by the director of purchases to make purchases pursuant to K.S.A. 75-3739(e), and amendments thereto, shall consider any unsolicited proposal for goods or services under this section.

(i) The secretary of administration and the secretary for aging and disability services, jointly, shall adopt rules and regulations as necessary to effectuate the purpose of this section.

(j) ~~On and after January 13, 2014,~~ At the beginning of each regular session of the legislature, the secretary of administration and the secretary for aging and disability services shall submit to the social services budget committee of the house of representatives and the appropriate subcommittee of the committee on ways and means of the senate, a written report on *the number of*:

(1) ~~The number of~~ Certified businesses certified by the department of administration during the previous fiscal year;

(2) ~~the number of~~ certified businesses awarded contracts pursuant to subsection (b) during the previous fiscal year;

(3) ~~the number of~~ contracts awarded pursuant to subsection (b) to each certified business during the previous fiscal year;

(4) ~~the number of~~ individuals with disabilities removed from, reinstated to or not reinstated to home and community based services or other medicaid program services during the previous fiscal year as a result of employment with a certified business;

(5) ~~the number of~~ individuals employed by each certified business during the previous fiscal year; and

(6) ~~the number of~~ individuals with disabilities employed by each certified business during the previous fiscal year.

(k) When a state agency is receiving bids to purchase passenger motor vehicles, such agency shall follow the procedures prescribed in subsection (c)(2), except in the case where one of the responsible bidders offers motor vehicles ~~which that~~ are assembled in Kansas. In such a case, 3% of the bid of the responsible bidder ~~which that~~ offers motor vehicles assembled in Kansas shall be subtracted from the bid amount, and that amount shall be used to determine the lowest bid pursuant to subsection (c)(2). This subsection shall only apply to bids ~~which that~~ match the exact motor vehicle specifications of the agency

purchasing passenger motor vehicles.

(1) The secretary of administration shall certify that a business meets the requirements for a certified business as defined in subsection (g), and shall recertify such business as having met such requirements every three years thereafter. ~~Businesses already certified for 2017 as provided in this section on July 1, 2017, shall be recertified every three years thereafter.~~

Sec. 13. K.S.A. 75-5391 is hereby amended to read as follows: 75-5391. (a) There is hereby established within the Kansas department for children and families the Kansas commission for the deaf and hard of hearing. The commission shall:

(1) Advocate services affecting the deaf and hard of hearing in the areas of public services, ~~health care~~ *healthcare*, educational, vocational and employment opportunity;

(2) act as a bureau of information for the deaf and hard of hearing to state agencies and public institutions providing general health and mental ~~health care~~ *healthcare*, employment, vocational, and educational services, and to local agencies and programs;

(3) collect facts and statistics and other special studies of conditions affecting the health and welfare of the deaf and hard of hearing in this state;

(4) provide for a mutual exchange of ideas and information on the national, state and local levels;

(5) provide public education of prenatal and postnatal warning signs of conditions ~~which that~~ may lead to deafness or hearing ~~impairment~~ *loss* in the fetus or newborn child;

(6) encourage and assist local governments in the development of programs for the deaf and hard of hearing;

(7) cooperate with public and private agencies and units of local, state and federal governments in promoting coordination in programs for the deaf and hard of hearing;

(8) provide for the social, emotional, educational and vocational needs of the deaf and hard of hearing and their families;

(9) serve as an advisory board to the governor on the needs of the deaf and hard of hearing by preparing an annual report ~~which that~~ reviews the status of all state services to the deaf and hard of hearing within Kansas, and to recommend priorities to the governor for the development and coordination of services to the deaf and hard of hearing; *and*

(10) make recommendations for needed improvements, and serve as an advisory board in regard to new legislation affecting the deaf and hard of hearing.

(b) Except as otherwise provided by this act, all budgeting, purchasing and related management functions of the Kansas commission for the deaf and hard of hearing shall be administered under the direction and supervision of the secretary for children and families. Within the limitations of available appropriations, the secretary for children and families shall provide additional clerical and other assistance as may be required for the commission.

Sec. 14. K.S.A. 75-5399 is hereby amended to read as follows: 75-5399. ~~When As~~ used in this act:

(a) "Individuals with disabilities" means individuals with intellectual disability, hearing ~~impairments~~ *loss* including deafness, speech or language ~~impairments~~ *disorders*, visual impairments including blindness, serious emotional disturbance, orthopedic impairments, autism, traumatic brain injury, other health impairments or specific learning disabilities.

(b) "Transition services" means a coordinated set of activities for a student, designed within an outcome-oriented process, which promotes

movement from school to post-school activities, including post-secondary education, vocational training, integrated employment—(, including supported employment), continuing and adult education, adult services, independent living or community participation. The coordinated set of activities shall be based upon the individual student's needs, taking into account the student's preferences and interests, and shall include instruction, community experiences, the development of employment and other post-school adult living objectives and, when appropriate, acquisition of daily living skills and functional vocational evaluation.

(c) "Transition planning services" means rehabilitation counseling, information and referral to community services for students age 16 and older in secondary special education programs.

(d) "Local education authority" means the special education interlocal or cooperative or school district responsible for the local special education program.

(e) "Special education program" means services that are provided pursuant to public law 94-142—(, the education of all handicapped children's act), as implemented in Kansas through K.S.A. 72-3403 et seq., and amendments thereto, and public law 101-476—(, the individuals with disabilities education act).

(f) "Secretary" means the secretary for children and families or the designee of the secretary.

(g) "Local transition council" means a representative group of persons with disabilities and their families, school personnel, adult service agency personnel and members of the general public, such as employers—~~which~~, *that* develops an annual plan to improve secondary special education, transition and transition planning services.

Sec. 15. K.S.A. 76-1001b is hereby amended to read as follows: 76-1001b. (a) The state board of education may adopt rules and regulations for the admission of students to the Kansas state school for the deaf. Such students may be admitted as day students or as resident students.

(b) Every resident of the state who is within the age of eligibility for admission, as determined by the state board of education, and who is unable to materially benefit from attendance in the public schools because of ~~a hearing impairment~~ *loss*, as determined under article 9 of chapter 72 of Kansas Statutes Annotated, *and amendments thereto*, shall be entitled to admission to the Kansas state school for the deaf. Nonresidents of the state may be admitted to the Kansas state school for the deaf until maximum enrollment is attained so long as such admittance does not result in the exclusion of any eligible resident of the state from ~~said~~ *such* school.

Sec. 16. K.S.A. 19-2698, 36-517, 39-1107, 65-3276, 65-6511, 72-3253, 72-3404, 75-3740, 75-5391, 75-5399 and 76-1001b and K.S.A. 2021 Supp. 50-676 are hereby repealed.

Sec. 17. This act shall take effect and be in force from and after its publication in the Kansas register.

I hereby certify that the above BILL originated in the SENATE, and passed that body

SENATE adopted

Conference Committee Report _____

President of the Senate.

Secretary of the Senate.

Passed the HOUSE

as amended _____

HOUSE adopted

Conference Committee Report _____

Speaker of the House.

Chief Clerk of the House.

APPROVED _____

Governor.