

## HOUSE BILL No. 2911

By Representative Pottorff

2-13

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AN ACT establishing a putative father registry; requiring certain actions of putative fathers and prescribing penalties thereto; responsibilities of secretary of social and rehabilitation services; termination of parental rights; amending K.S.A. 59-2133 and 59-2136 and K.S.A. 2001 Supp. 45-221 and repealing the existing sections.

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

New Section 1. The provisions of sections 1 through 11, and amendments thereto, shall be known and may be cited as the putative father registry act.

New Sec. 2. As used in this act: (a) "Child" includes an unborn child; (b) "putative father" means an individual who is or may be a child's birth father;

(c) "registry" means the putative father registry established and maintained pursuant to this act; and

(d) "secretary" means the secretary of social and rehabilitation services.

New Sec. 3. The purpose of the putative father registry is to provide a procedure that allows any person who is a putative father to record the registering person's name and address in order to: (a) Receive notice of any action in this state that may terminate any parental rights the registering person may have with respect to the child; and

(b) submit to the jurisdiction of this state any action pursuant to the uniform interstate family support act with respect to the child.

New Sec. 4. (a) A person who engages in sexual relations with a member of the opposite sex is presumed to know that a pregnancy could result.

(b) In addition to any other notice to which the putative father is entitled, a putative father is entitled to notice of termination of parental rights proceedings for the purposes of adoption if the putative father has complied with the requirements of the registry.

(c) An individual who is not married to the mother but who is presumed to be a father and registers in accordance with this part is entitled to receive notice of a termination of parental rights proceedings.

New Sec. 5. (a) The secretary of social and rehabilitation services

1 shall establish and maintain a putative father registry which shall record  
2 the names and last known addresses of: (1) Any person adjudicated by a  
3 court of this state to be the father of a child born out of wedlock if a  
4 certified copy of the court order is filed with the registry;

5 (2) any person who has filed with the registry, a paternity claim for  
6 notification purposes for such child;

7 (3) any person who has filed with the registry a notice of intent to  
8 claim paternity;

9 (4) any person adjudicated by an authorized tribunal of another state  
10 or territory of the United States to be the father of such child, if a certified  
11 copy of the tribunal's order has been filed with the registry; and

12 (5) any person registered with the putative father registry established  
13 by the secretary pursuant to K.S.A. 23-9,201, and amendments thereto.

14 (b) A paternity claim for notification purposes or a notice of intent to  
15 claim paternity filed with the registry by a putative father shall be an  
16 admission of paternity and shall include the claimant's full name, date of  
17 birth and address at which he may be served with notice; the name and  
18 last known address of the mother; and the name, if known, and date of  
19 the birth or the expected birth of the child. The person filing the notice  
20 shall notify the registry of any change of address pursuant to procedures  
21 prescribed by rules and regulations promulgated by the secretary.

22 (c) Any person filing a paternity claim for notification purposes or a  
23 notice of intent to claim paternity with the registry may revoke such no-  
24 tice, and upon receipt of such revocation by the registry, the effect shall  
25 be as if no filing had ever been made.

26 (d) The secretary shall not divulge the names and addresses of per-  
27 sons listed with the registry to any person except as authorized by law or  
28 upon order of a court for good cause shown.

29 (e) The secretary may develop information about the registry and may  
30 distribute such information, through their existing publications, to the  
31 news media and the public. The secretary shall also make the registration  
32 forms available through the department of social and rehabilitation serv-  
33 ices, the department of health and environment, department of correc-  
34 tions, the clerk of each district court and each local health department.  
35 The secretary shall provide a notice that informs the public about the  
36 purpose and operation of the registry to be posted in a conspicuous place  
37 in each office of the clerk of a district court, driver's license examination  
38 station, local health department and county clerk's office. Such notice  
39 shall include information regarding where to obtain a registration form,  
40 where to register, circumstances under which a putative father is required  
41 to register, the period during which a putative father is required to reg-  
42 ister in order to entitle the putative father to receive notice of an adoption,  
43 the information that must be provided for the registry and what other

1 actions the putative father is required to take to preserve a right to notice,  
2 the consequences of not submitting a timely registration, and the penal-  
3 ties for filing a false claim with the registry.

4 (f) If a putative father does not have an address where the putative  
5 father can receive notice of a termination of parental rights proceeding,  
6 the putative father may designate another person as an agent for the  
7 purpose of receiving notice. The putative father shall provide the secre-  
8 tary with the agent's name and the address at which the agent may be  
9 served. Service of notice by certified mail, return receipt requested, con-  
10 stitutes service of notice upon the putative father.

11 (g) A putative father shall register under this section on a registration  
12 form prescribed by the secretary or with a legibly typed or handwritten  
13 statement that provides the required information and that is submitted  
14 to the secretary in person or by facsimile transmission, mail, private cour-  
15 tier or express delivery service. The registration must be signed by the  
16 putative father and notarized.

17 (h) Except as otherwise provided in this act, information contained  
18 within the registry is confidential.

19 (i) The secretary is authorized to promulgate rules and regulations to  
20 carry out the provisions of this act.

21 New Sec. 6. (a) The following persons may request that the secretary  
22 search the registry to determine whether a putative father is registered  
23 in relation to a child:

24 (1) A representative of the department;

25 (2) a representative of an agency that is or may be arranging an  
26 adoption;

27 (3) a prospective adoptive parent or an attorney representing a pro-  
28 spective adoptive parent in a direct parental placement adoption who has  
29 the notarized consent of the birth mother;

30 (4) the mother of the child; or

31 (5) any party, or the party's attorney, in an action pursuant to the  
32 uniform interstate family support act.

33 (b) A request for information about a registration from the secretary  
34 must be in writing.

35 (c) Not later than five days after receiving a request for a registry  
36 search from a person as provided in subsection (a), the secretary shall  
37 conduct a search of the putative father registry and submit an affidavit to  
38 the requestor verifying the date on which the request was received, the  
39 date on which the search was conducted and the results of the search.

40 (d) If the secretary finds that one or more putative fathers are reg-  
41 istered, the secretary shall submit a copy of each registration form or  
42 order with the secretary's affidavit.

43 (e) A court may not issue an order terminating a father's parental

1 rights unless the secretary's affidavit under subsection (c) is filed with the  
2 court.

3 (f) The secretary may charge a reasonable fee for responding to a  
4 request under this section.

5 New Sec. 7. Failure of an agency to post a proper notice under the  
6 provisions of this act does not relieve a putative father of the obligation  
7 to register in accordance with this act with the putative father registry in  
8 order to entitle the putative father, because of registration, to notice of  
9 proceedings involving a child who may have been fathered by the putative  
10 father.

11 New Sec. 8. The secretary shall furnish a certified copy of the pu-  
12 tative father's registration form upon written request by: (a) A putative  
13 father whose name appears on the registration form being requested;

14 (b) a mother whose name appears on the registration form being  
15 requested;

16 (c) upon reaching majority, a person who was the subject of a  
17 registration;

18 (d) a prospective adoptive parent or an attorney representing a pro-  
19 spective adoptive parent in an adoption who has the notarized consent of  
20 the birth mother;

21 (e) a licensed child-placing agency;

22 (f) a court that presides over a pending adoption;

23 (g) a representative of the child support enforcement program of the  
24 department of social and rehabilitation services; or

25 (h) a representative of the secretary involved in an adoption  
26 proceeding.

27 New Sec. 9. (a) In order to be entitled, because of registration, to  
28 receive notice of a termination of parental rights proceeding pursuant to  
29 an adoption, a putative father's registration form complying with the  
30 requirements of this act must be received by the secretary not later than  
31 72 hours after the child's birth.

32 (b) A putative father may file all information required by this act  
33 before a child's birth even though the putative father has no actual knowl-  
34 edge that a pregnancy has occurred or that a pregnancy has continued  
35 through gestation.

36 New Sec. 10. Within three days after the filing of a paternity claim  
37 for notification purposes or a notice of intent to claim paternity with the  
38 registry pursuant to this act, the secretary shall cause a certified copy of  
39 such notice to be mailed by certified mail to: (a) The mother or prospec-  
40 tive mother of such child at the last known address shown on the notice;  
41 or (b) an agent specifically designated in writing by the mother or pro-  
42 spective mother to receive such notice. The notice shall be admissible in  
43 any action for paternity, shall estop the claimant from denying paternity

1 of such child after such filing, and shall contain language that the claimant  
2 acknowledges liability for contribution to the support and education of  
3 the child after birth and for contribution to the pregnancy related medical  
4 expenses of the mother.

5 New Sec. 11. If a notice of intent to claim paternity is not timely  
6 filed with the registry pursuant to this act, the mother of a child born out  
7 of wedlock or an agent specifically designated in writing by the mother  
8 may request, and the secretary shall supply, a certificate that no notice of  
9 intent to claim paternity has been filed with the registry and the filing of  
10 such certificate shall eliminate the need or necessity of a consent or re-  
11 linquishment for adoption by the natural father of such child.

12 Sec. 12. K.S.A. 2001 Supp. 45-221 is hereby amended to read as  
13 follows: 45-221. (a) Except to the extent disclosure is otherwise required  
14 by law, a public agency shall not be required to disclose:

15 (1) Records the disclosure of which is specifically prohibited or re-  
16 stricted by federal law, state statute or rule of the Kansas supreme court  
17 or the disclosure of which is prohibited or restricted pursuant to specific  
18 authorization of federal law, state statute or rule of the Kansas supreme  
19 court to restrict or prohibit disclosure.

20 (2) Records which are privileged under the rules of evidence, unless  
21 the holder of the privilege consents to the disclosure.

22 (3) Medical, psychiatric, psychological or alcoholism or drug depend-  
23 ency treatment records which pertain to identifiable patients.

24 (4) Personnel records, performance ratings or individually identifia-  
25 ble records pertaining to employees or applicants for employment, except  
26 that this exemption shall not apply to the names, positions, salaries and  
27 lengths of service of officers and employees of public agencies once they  
28 are employed as such.

29 (5) Information which would reveal the identity of any undercover  
30 agent or any informant reporting a specific violation of law.

31 (6) Letters of reference or recommendation pertaining to the char-  
32 acter or qualifications of an identifiable individual.

33 (7) Library, archive and museum materials contributed by private  
34 persons, to the extent of any limitations imposed as conditions of the  
35 contribution.

36 (8) Information which would reveal the identity of an individual who  
37 lawfully makes a donation to a public agency, if anonymity of the donor  
38 is a condition of the donation.

39 (9) Testing and examination materials, before the test or examination  
40 is given or if it is to be given again, or records of individual test or ex-  
41 amination scores, other than records which show only passage or failure  
42 and not specific scores.

43 (10) Criminal investigation records, except that the district court, in

1 an action brought pursuant to K.S.A. 45-222, and amendments thereto,  
2 may order disclosure of such records, subject to such conditions as the  
3 court may impose, if the court finds that disclosure:

- 4 (A) Is in the public interest;
- 5 (B) would not interfere with any prospective law enforcement action;
- 6 (C) would not reveal the identity of any confidential source or un-  
7 dercover agent;
- 8 (D) would not reveal confidential investigative techniques or proce-  
9 dures not known to the general public;
- 10 (E) would not endanger the life or physical safety of any person; and
- 11 (F) would not reveal the name, address, phone number or any other  
12 information which specifically and individually identifies the victim of any  
13 sexual offense in article 35 of chapter 21 of the Kansas Statutes Anno-  
14 tated, and amendments thereto.

15 (11) Records of agencies involved in administrative adjudication or  
16 civil litigation, compiled in the process of detecting or investigating vio-  
17 lations of civil law or administrative rules and regulations, if disclosure  
18 would interfere with a prospective administrative adjudication or civil  
19 litigation or reveal the identity of a confidential source or undercover  
20 agent.

21 (12) Records of emergency or security information or procedures of  
22 a public agency, or plans, drawings, specifications or related information  
23 for any building or facility which is used for purposes requiring security  
24 measures in or around the building or facility or which is used for the  
25 generation or transmission of power, water, fuels or communications, if  
26 disclosure would jeopardize security of the public agency, building or  
27 facility.

28 (13) The contents of appraisals or engineering or feasibility estimates  
29 or evaluations made by or for a public agency relative to the acquisition  
30 of property, prior to the award of formal contracts therefor.

31 (14) Correspondence between a public agency and a private individ-  
32 ual, other than correspondence which is intended to give notice of an  
33 action, policy or determination relating to any regulatory, supervisory or  
34 enforcement responsibility of the public agency or which is widely dis-  
35 tributed to the public by a public agency and is not specifically in response  
36 to communications from such a private individual.

37 (15) Records pertaining to employer-employee negotiations, if dis-  
38 closure would reveal information discussed in a lawful executive session  
39 under K.S.A. 75-4319, and amendments thereto.

40 (16) Software programs for electronic data processing and documen-  
41 tation thereof, but each public agency shall maintain a register, open to  
42 the public, that describes:

- 43 (A) The information which the agency maintains on computer facil-

1 ities; and

2 (B) the form in which the information can be made available using  
3 existing computer programs.

4 (17) Applications, financial statements and other information sub-  
5 mitted in connection with applications for student financial assistance  
6 where financial need is a consideration for the award.

7 (18) Plans, designs, drawings or specifications which are prepared by  
8 a person other than an employee of a public agency or records which are  
9 the property of a private person.

10 (19) Well samples, logs or surveys which the state corporation com-  
11 mission requires to be filed by persons who have drilled or caused to be  
12 drilled, or are drilling or causing to be drilled, holes for the purpose of  
13 discovery or production of oil or gas, to the extent that disclosure is limited  
14 by rules and regulations of the state corporation commission.

15 (20) Notes, preliminary drafts, research data in the process of anal-  
16 ysis, unfunded grant proposals, memoranda, recommendations or other  
17 records in which opinions are expressed or policies or actions are pro-  
18 posed, except that this exemption shall not apply when such records are  
19 publicly cited or identified in an open meeting or in an agenda of an open  
20 meeting.

21 (21) Records of a public agency having legislative powers, which re-  
22 cords pertain to proposed legislation or amendments to proposed legis-  
23 lation, except that this exemption shall not apply when such records are:

24 (A) Publicly cited or identified in an open meeting or in an agenda  
25 of an open meeting; or

26 (B) distributed to a majority of a quorum of any body which has au-  
27 thority to take action or make recommendations to the public agency with  
28 regard to the matters to which such records pertain.

29 (22) Records of a public agency having legislative powers, which re-  
30 cords pertain to research prepared for one or more members of such  
31 agency, except that this exemption shall not apply when such records are:

32 (A) Publicly cited or identified in an open meeting or in an agenda  
33 of an open meeting; or

34 (B) distributed to a majority of a quorum of any body which has au-  
35 thority to take action or make recommendations to the public agency with  
36 regard to the matters to which such records pertain.

37 (23) Library patron and circulation records which pertain to identi-  
38 fiable individuals.

39 (24) Records which are compiled for census or research purposes and  
40 which pertain to identifiable individuals.

41 (25) Records which represent and constitute the work product of an  
42 attorney.

43 (26) Records of a utility or other public service pertaining to individ-

1 ually identifiable residential customers of the utility or service, except that  
2 information concerning billings for specific individual customers named  
3 by the requester shall be subject to disclosure as provided by this act.

4 (27) Specifications for competitive bidding, until the specifications  
5 are officially approved by the public agency.

6 (28) Sealed bids and related documents, until a bid is accepted or all  
7 bids rejected.

8 (29) Correctional records pertaining to an identifiable inmate or re-  
9 lease, except that:

10 (A) The name; photograph and other identifying information; sen-  
11 tence data; parole eligibility date; custody or supervision level; disciplinary  
12 record; supervision violations; conditions of supervision, excluding  
13 requirements pertaining to mental health or substance abuse counseling;  
14 location of facility where incarcerated or location of parole office main-  
15 taining supervision and address of a releasee whose crime was committed  
16 after the effective date of this act shall be subject to disclosure to any  
17 person other than another inmate or releasee, except that the disclosure  
18 of the location of an inmate transferred to another state pursuant to the  
19 interstate corrections compact shall be at the discretion of the secretary  
20 of corrections;

21 (B) the ombudsman of corrections, the attorney general, law enforce-  
22 ment agencies, counsel for the inmate to whom the record pertains and  
23 any county or district attorney shall have access to correctional records to  
24 the extent otherwise permitted by law;

25 (C) the information provided to the law enforcement agency pursu-  
26 ant to the sex offender registration act, K.S.A. 22-4901, *et seq.*, and  
27 amendments thereto, shall be subject to disclosure to any person, except  
28 that the name, address, telephone number or any other information which  
29 specifically and individually identifies the victim of any offender required  
30 to register as provided by the Kansas offender registration act, K.S.A. 22-  
31 4901 *et seq.* and amendments thereto, shall not be disclosed; and

32 (D) records of the department of corrections regarding the financial  
33 assets of an offender in the custody of the secretary of corrections shall  
34 be subject to disclosure to the victim, or such victim's family, of the crime  
35 for which the inmate is in custody as set forth in an order of restitution  
36 by the sentencing court.

37 (30) Public records containing information of a personal nature  
38 where the public disclosure thereof would constitute a clearly unwar-  
39 ranted invasion of personal privacy.

40 (31) Public records pertaining to prospective location of a business  
41 or industry where no previous public disclosure has been made of the  
42 business' or industry's interest in locating in, relocating within or expand-  
43 ing within the state. This exception shall not include those records per-



1 taining to application of agencies for permits or licenses necessary to do  
2 business or to expand business operations within this state, except as  
3 otherwise provided by law.

4 (32) Engineering and architectural estimates made by or for any pub-  
5 lic agency relative to public improvements.

6 (33) Financial information submitted by contractors in qualification  
7 statements to any public agency.

8 (34) Records involved in the obtaining and processing of intellectual  
9 property rights that are expected to be, wholly or partially vested in or  
10 owned by a state educational institution, as defined in K.S.A. 76-711, and  
11 amendments thereto, or an assignee of the institution organized and ex-  
12 isting for the benefit of the institution.

13 (35) Any report or record which is made pursuant to K.S.A. 65-4922,  
14 65-4923 or 65-4924, and amendments thereto, and which is privileged  
15 pursuant to K.S.A. 65-4915 or 65-4925, and amendments thereto.

16 (36) Information which would reveal the precise location of an ar-  
17 cheological site.

18 (37) Any financial data or traffic information from a railroad company,  
19 to a public agency, concerning the sale, lease or rehabilitation of the  
20 railroad's property in Kansas.

21 (38) Risk-based capital reports, risk-based capital plans and corrective  
22 orders including the working papers and the results of any analysis filed  
23 with the commissioner of insurance in accordance with K.S.A. 40-2c20  
24 and ~~45-2d20~~ 40-2d20 and amendments thereto.

25 (39) Memoranda and related materials required to be used to support  
26 the annual actuarial opinions submitted pursuant to subsection (b) of  
27 K.S.A. 40-409, and amendments thereto.

28 (40) Disclosure reports filed with the commissioner of insurance un-  
29 der subsection (a) of K.S.A. 40-2,156, and amendments thereto.

30 (41) All financial analysis ratios and examination synopses concerning  
31 insurance companies that are submitted to the commissioner by the na-  
32 tional association of insurance commissioners' insurance regulatory infor-  
33 mation system.

34 (42) Any records the disclosure of which is restricted or prohibited  
35 by a tribal-state gaming compact.

36 (43) Market research, market plans, business plans and the terms and  
37 conditions of managed care or other third party contracts, developed or  
38 entered into by the university of Kansas medical center in the operation  
39 and management of the university hospital which the chancellor of the  
40 university of Kansas or the chancellor's designee determines would give  
41 an unfair advantage to competitors of the university of Kansas medical  
42 center.

43 (44) The amount of franchise tax paid to the secretary of state by

1 domestic corporations, foreign corporations, domestic limited liability  
2 companies, foreign limited liability companies, domestic limited partner-  
3 ship, foreign limited partnership, domestic limited liability partnerships  
4 and foreign limited liability partnerships.

5 (45) *Records made pursuant to the putative father registry, and*  
6 *which is privileged or intended to be confidential and not divulged pur-*  
7 *suant to the putative father registry act, section 1 et seq., and amendments*  
8 *thereto.*

9 (b) Except to the extent disclosure is otherwise required by law or as  
10 appropriate during the course of an administrative proceeding or on ap-  
11 peal from agency action, a public agency or officer shall not disclose fi-  
12 nancial information of a taxpayer which may be required or requested by  
13 a county appraiser or the director of property valuation to assist in the  
14 determination of the value of the taxpayer's property for ad valorem tax-  
15 ation purposes; or any financial information of a personal nature required  
16 or requested by a public agency or officer, including a name, job descrip-  
17 tion or title revealing the salary or other compensation of officers, em-  
18 ployees or applicants for employment with a firm, corporation or agency,  
19 except a public agency. Nothing contained herein shall be construed to  
20 prohibit the publication of statistics, so classified as to prevent identifi-  
21 cation of particular reports or returns and the items thereof.

22 (c) As used in this section, the term "cited or identified" shall not  
23 include a request to an employee of a public agency that a document be  
24 prepared.

25 (d) If a public record contains material which is not subject to dis-  
26 closure pursuant to this act, the public agency shall separate or delete  
27 such material and make available to the requester that material in the  
28 public record which is subject to disclosure pursuant to this act. If a public  
29 record is not subject to disclosure because it pertains to an identifiable  
30 individual, the public agency shall delete the identifying portions of the  
31 record and make available to the requester any remaining portions which  
32 are subject to disclosure pursuant to this act, unless the request is for a  
33 record pertaining to a specific individual or to such a limited group of  
34 individuals that the individuals' identities are reasonably ascertainable, the  
35 public agency shall not be required to disclose those portions of the record  
36 which pertain to such individual or individuals.

37 (e) The provisions of this section shall not be construed to exempt  
38 from public disclosure statistical information not descriptive of any iden-  
39 tifiable person.

40 (f) Notwithstanding the provisions of subsection (a), any public rec-  
41 ord which has been in existence more than 70 years shall be open for  
42 inspection by any person unless disclosure of the record is specifically  
43 prohibited or restricted by federal law, state statute or rule of the Kansas

1 supreme court or by a policy adopted pursuant to K.S.A. 72-6214, and  
2 amendments thereto.

3 Sec. 13. K.S.A. 59-2133 is hereby amended to read as follows: 59-  
4 2133. (a) Upon filing the petition, the court shall fix the time and place  
5 for the hearing. The time fixed for the hearing may be any time not less  
6 than 30 days nor more than 60 days from the date the petition is filed.  
7 The time fixed for the hearing may be extended by the court for good  
8 cause.

9 (b) In independent and stepparent adoptions notice of the hearing  
10 on the petition shall be given to the parents, *any person who has regis-*  
11 *tered with the putative father registry as father of such child* or presumed  
12 parents, unless parental rights have been previously terminated, and any  
13 other persons as the court may direct. Notice also shall be given in an  
14 independent adoption to a legal guardian of the child or individual *in loco*  
15 *parentis*.

16 (c) In an agency adoption notice of the hearing on the petition shall  
17 be given to the consenting agency unless waived.

18 (d) Notice given pursuant to this section shall not include a copy of  
19 the petition.

20 Sec. 14. K.S.A. 59-2136 is hereby amended to read as follows: 59-  
21 2136. (a) The provisions of this section shall apply where a relinquishment  
22 or consent to an adoption has not been obtained from a parent and K.S.A.  
23 59-2124 and 59-2129, and amendments thereto, state that the necessity  
24 of a parent's relinquishment or consent can be determined under this  
25 section.

26 (b) Insofar as practicable, the provisions of this section applicable to  
27 the father also shall apply to the mother and those applicable to the  
28 mother also shall apply to the father.

29 (c) In stepparent adoptions under subsection (d), the court may ap-  
30 point an attorney to represent any father who is unknown or whose  
31 whereabouts are unknown. In all other cases, the court shall appoint an  
32 attorney to represent any father who is unknown or whose whereabouts  
33 are unknown. ~~If no person is identified as the father or a possible father,~~  
34 ~~the court shall order publication notice of the hearing in such manner as~~  
35 ~~the court deems appropriate~~ *has registered with the putative father*  
36 *registry*.

37 (d) In a stepparent adoption, if a mother consents to the adoption of  
38 a child who has a presumed father under subsection (a)(1), (2) or (3) of  
39 K.S.A. 38-1114 and amendments thereto *or such father has registered*  
40 *with the putative father registry*, or who has a father as to whom the child  
41 is a legitimate child under prior law of this state or under the law of  
42 another jurisdiction, the consent of such father must be given to the  
43 adoption unless such father has failed or refused to assume the duties of

1 a parent for two consecutive years next preceding the filing of the petition  
2 for adoption or is incapable of giving such consent. In determining  
3 whether a father's consent is required under this subsection, the court  
4 may disregard incidental visitations, contacts, communications or contri-  
5 butions. In determining whether the father has failed or refused to as-  
6 sume the duties of a parent for two consecutive years next preceding the  
7 filing of the petition for adoption, there shall be a rebuttable presumption  
8 that if the father, after having knowledge of the child's birth, has know-  
9 ingly failed to provide a substantial portion of the child support as re-  
10 quired by judicial decree, when financially able to do so, for a period of  
11 two years next preceding the filing of the petition for adoption, then such  
12 father has failed or refused to assume the duties of a parent.

13 (e) Except as provided in subsection (d), if a mother desires to relin-  
14 quish or consents to the adoption of such mother's child, a petition shall  
15 be filed in the district court to terminate the parental rights of the father,  
16 unless the father's relationship to the child has been previously termi-  
17 nated or determined not to exist by a court. The petition may be filed by  
18 the mother, the petitioner for adoption, the person or agency having  
19 custody of the child or the agency to which the child has been or is to be  
20 relinquished. Where appropriate, the request to terminate parental rights  
21 may be contained in a petition for adoption. If the request to terminate  
22 parental rights is not filed in connection with an adoption proceeding,  
23 venue shall be in the county in which the child, the mother or the pre-  
24 sumed or alleged father resides or is found. In an effort to identify the  
25 father, the court shall determine by deposition, affidavit or hearing, the  
26 following:

27 (1) Whether there is a presumed father under K.S.A. 38-1114 and  
28 amendments thereto;

29 (2) whether there is a father whose relationship to the child has been  
30 determined by a court;

31 (3) whether there is a father as to whom the child is a legitimate child  
32 under prior law of this state or under the law of another jurisdiction;

33 (4) whether the mother was cohabitating with a man at the time of  
34 conception or birth of the child;

35 (5) whether the mother has received support payments or promises  
36 of support with respect to the child or in connection with such mother's  
37 pregnancy; ~~and~~

38 (6) whether any man has formally or informally acknowledged or de-  
39 clared such man's possible paternity of the child; *and*

40 (7) *whether any person has registered with the putative father reg-*  
41 *istry as father of such child.*

42 If the father is identified to the satisfaction of the court, or if more than  
43 one man is identified as a possible father, each shall be given notice of

1 the proceeding in accordance with subsection (f).

2 (f) Notice of the proceeding shall be given to every person *who has*  
3 *registered with the putative father registry as father of such child and*  
4 identified as the father or a possible father by personal service, certified  
5 mail return receipt requested or in any other manner the court may di-  
6 rect. Proof of notice shall be filed with the court before the petition or  
7 request is heard.

8 (g) If, after the inquiry, the court is unable to identify the father or  
9 any possible father and no person has appeared claiming to be the father  
10 and claiming custodial rights, the court shall enter an order terminating  
11 the unknown father's parental rights with reference to the child without  
12 regard to subsection (h). If any person identified as the father or possible  
13 father of the child fails to appear or, if appearing, fails to claim custodial  
14 rights, such person's parental rights with reference to the child shall be  
15 terminated without regard to subsection (h).

16 (h) When a father or alleged father appears and asserts parental  
17 rights, the court shall determine parentage, if necessary pursuant to the  
18 Kansas parentage act. If a father desires but is financially unable to em-  
19 ploy an attorney, the court shall appoint an attorney for the father. There-  
20 after, the court may order that parental rights be terminated, upon a  
21 finding by clear and convincing evidence, of any of the following:

22 (1) The father abandoned or neglected the child after having knowl-  
23 edge of the child's birth;

24 (2) the father is unfit as a parent or incapable of giving consent;

25 (3) the father has made no reasonable efforts to support or commu-  
26 nicate with the child after having knowledge of the child's birth;

27 (4) the father, after having knowledge of the pregnancy, failed with-  
28 out reasonable cause to provide support for the mother during the six  
29 months prior to the child's birth;

30 (5) the father abandoned the mother after having knowledge of the  
31 pregnancy;

32 (6) the birth of the child was the result of rape of the mother; or

33 (7) the father has failed or refused to assume the duties of a parent  
34 for two consecutive years next preceding the filing of the petition.

35 In making a finding under this subsection, the court may disregard  
36 incidental visitations, contacts, communications or contributions. In de-  
37 termining whether the father has failed or refused to assume the duties  
38 of a parent for two consecutive years next preceding the filing of the  
39 petition for adoption, there shall be a rebuttable presumption that if the  
40 father, after having knowledge of the child's birth, has knowingly failed  
41 to provide a substantial portion of the child support as required by judicial  
42 decree, when financially able to do so, for a period of two years next  
43 preceding the filing of the petition for adoption, then such father has

1 failed or refused to assume the duties of a parent.

2 (i) A termination of parental rights under this section shall not ter-  
3 minate the right of the child to inherit from or through the parent. Upon  
4 such termination, all the rights of birth parents to such child, including  
5 their right to inherit from or through such child, shall cease.

6 Sec. 15. K.S.A. 59-2133 and 59-2136 and K.S.A. 2001 Supp. 45-221  
7 are hereby repealed.

8 Sec. 16. This act shall take effect and be in force from and after its  
9 publication in the statute book.

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