

SENATE BILL No. 37

By 2014 Special Committee on Judiciary

1-20

1 AN ACT concerning children and minors; enacting the Kansas foster
2 parents' bill of rights act; relating to the revised Kansas code for care of
3 children; amending K.S.A. 2014 Supp. 38-2212, 38-2255, 38-2258 and
4 38-2270 and repealing the existing sections.
5

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

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

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

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

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

26 (c) (1) The Kansas department for children and families shall provide
27 foster parents with pre-service training. The Kansas department for
28 children and families, department of health and environment or the child
29 placement agency shall provide training at appropriate intervals to meet
30 mutually assessed needs of the child and to improve foster parent skills.
31 Training approved by the licensing agency and conducted by foster parent
32 support groups shall be recognized as pertinent, and information about
33 training offered by foster parent support groups shall be regularly shared
34 with family foster homes licensed within the region served by those
35 support groups.

36 (2) The Kansas department for children and families shall provide to

1 foster parents, prior to and during placement, information which is
2 pertinent to the care and needs of the child and to protect the foster family
3 to the extent allowed under state and federal law. The Kansas department
4 for children and families shall provide foster parents information regarding
5 the number of times a child has been removed and the reasons therefor, to
6 the extent permitted by law, and may also provide the names and phone
7 numbers of the previous foster parents if the previous foster parents have
8 authorized such release.

9 (3) The Kansas department for children and families shall arrange,
10 when appropriate and feasible, for pre-placement visits between foster
11 children and family foster home parents.

12 (4) Foster parents may ask questions about the child's case plan,
13 encourage a placement or refuse a placement. In the event foster parents
14 ask questions about the case plan or refuse a placement, these actions shall
15 not serve as the determining factor with respect to a subsequent placement
16 of a child with such foster parents when such placement is in the best
17 interests of the child. After a placement of a child with foster parents, the
18 Kansas department for children and families shall update the foster parents
19 as new relevant information about the child, the child's parents and other
20 relatives is gathered.

21 (5) Foster parents shall be informed in a timely manner by the Kansas
22 department for children and families of all case plan meetings concerning
23 the children placed in their homes, and shall be allowed and encouraged to
24 participate in such meetings and provide input concerning the case plan.
25 Foster parents should be encouraged to participate in other meetings
26 concerning the placement of the child when appropriate and feasible.
27 Foster parents shall be informed by the department of health and
28 environment concerning their licensure as a family foster home.

29 (6) The Kansas department for children and families shall establish,
30 when appropriate and feasible, reasonably accessible respite care for
31 children in foster care for short periods of time, in consultation with the
32 foster parents. Foster parents shall follow all policies and procedures
33 established by the Kansas department for children and families for
34 requesting and using respite care.

35 (7) Recognizing that placement changes may be difficult and
36 detrimental to the health and well-being of children, foster parents have
37 the responsibility to seek all legally available information, whenever
38 possible, before deciding whether or not to accept a child for placement.

39 (e) (1) Upon request by a former foster parent, the Kansas department
40 for children and families shall provide general information, if available, on
41 the well-being of a child if: (A) All parental rights to the child have been
42 terminated; and (B) there is no objection from the guardian ad litem, if the
43 child is less than 14 years of age, or the child, if the child is 14 years of

1 age or older, but less than 18 years of age. The Kansas department of
2 children and families shall adopt policy and procedure consistent with the
3 revised Kansas code for care of children regarding the provision of general
4 information about a child's well-being upon request from a former foster
5 parent if the child is in the custody of the secretary for children and
6 families, but parental rights to the child have not been terminated.

7 (2) Recognizing the importance of placement stability to the health
8 and well-being of children, foster parents shall be given written notice of
9 any plan to move a child in their care to a different placement in
10 accordance with K.S.A. 2014 Supp. 38-2258(a) and (f), and amendments
11 thereto.

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

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

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

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

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

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

40 Sec. 2. K.S.A. 2014 Supp. 38-2212 is hereby amended to read as
41 follows: 38-2212. (a) *Principle of appropriate access.* Information
42 contained in confidential agency records concerning a child alleged or
43 adjudicated to be in need of care may be disclosed as provided in this

1 section. Disclosure shall in all cases be guided by the principle of
2 providing access only to persons or entities with a need for information
3 that is directly related to achieving the purposes of this code.

4 (b) *Free exchange of information.* Pursuant to K.S.A. 2014 Supp. 38-
5 2210, and amendments thereto, the secretary and juvenile intake and
6 assessment agencies shall participate in the free exchange of information
7 concerning a child who is alleged or adjudicated to be in need of care.

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

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

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

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

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

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

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

33 (7) The state child death review board established under K.S.A. 22a-
34 243, and amendments thereto.

35 (8) An attorney for a private party who files a petition pursuant to
36 ~~subsection (b) of~~ K.S.A. 2014 Supp. 38-2233(b), and amendments thereto.

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

1 the information becomes available to the secretary:

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

3 (B) circumstances which necessitated placement;

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

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

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

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

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

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

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

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

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

29 (1) Information from confidential agency records of the department
30 ~~of social and rehabilitation services for children and families,~~ a law
31 enforcement agency or any juvenile intake and assessment worker of a
32 child alleged or adjudicated to be in need of care shall be available to
33 members of the standing house or senate committee on judiciary, house
34 committee on corrections and juvenile justice, house committee on
35 appropriations, senate committee on ways and means, legislative post audit
36 committee and any joint committee with authority to consider children's
37 and families' issues, when carrying out such member's or committee's
38 official functions in accordance with K.S.A. 75-4319, and amendments
39 thereto, in a closed or executive meeting. Except in limited conditions
40 established by $\frac{2}{3}$ of the members of such committee, records and reports
41 received by the committee shall not be further disclosed. Unauthorized
42 disclosure may subject such member to discipline or censure from the
43 house of representatives or senate. The secretary ~~of social and~~

1 ~~rehabilitation services for children and families~~ shall not summarize the
2 outcome of department actions regarding a child alleged to be a child in
3 need of care in information available to members of such committees.

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

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

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

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

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

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

32 (2) Within seven days of receipt of a request in accordance with the
33 procedures adopted under K.S.A. 45-220, and amendments thereto, the
34 secretary shall notify any affected individual that an open records request
35 has been made concerning such records. The secretary or any affected
36 individual may file a motion requesting the court to prevent disclosure of
37 such record or report, or any select portion thereof. If the affected
38 individual does not file such motion within seven days of notification, and
39 the secretary has not filed a motion, the secretary shall release the reports
40 or records. If such motion is filed, the court shall consider the effect such
41 disclosure may have upon an ongoing criminal investigation, a pending
42 prosecution, or the privacy of the child, if living, or the child's siblings,
43 parents or guardians. The court shall make written findings on the record

1 justifying the closing of the records and shall provide a copy of the journal
2 entry to the affected parties and the individual requesting disclosure
3 pursuant to the Kansas open records act, K.S.A. 45-215 et seq., and
4 amendments thereto.

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

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

16 Sec. 3. K.S.A. 2014 Supp. 38-2255 is hereby amended to read as
17 follows: 38-2255. (a) *Considerations*. Prior to entering an order of
18 disposition, the court shall give consideration to:

- 19 (1) The child's physical, mental and emotional condition;
- 20 (2) the child's need for assistance;
- 21 (3) the manner in which the parent participated in the abuse, neglect
22 or abandonment of the child;
- 23 (4) any relevant information from the intake and assessment process;
24 and
- 25 (5) the evidence received at the dispositional hearing.

26 (b) *Custody with a parent*. The court may place the child in the
27 custody of either of the child's parents subject to terms and conditions
28 which the court prescribes to assure the proper care and protection of the
29 child, including, but not limited to:

- 30 (1) Supervision of the child and the parent by a court services officer;
- 31 (2) participation by the child and the parent in available programs
32 operated by an appropriate individual or agency; and
- 33 (3) any special treatment or care which the child needs for the child's
34 physical, mental or emotional health and safety.

35 (c) *Removal of a child from custody of a parent*. The court shall not
36 enter the initial order removing a child from the custody of a parent
37 pursuant to this section unless the court first finds probable cause that:

- 38 (1) (A) The child is likely to sustain harm if not immediately removed
39 from the home;
- 40 (B) allowing the child to remain in home is contrary to the welfare of
41 the child; or
- 42 (C) immediate placement of the child is in the best interest of the
43 child; and

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

4 The court shall not enter an order removing a child from the custody of
5 a parent pursuant to this section based solely on the finding that the parent
6 is homeless.

7 (d) *Custody of a child removed from the custody of a parent.* If the
8 court has made the findings required by subsection (c), the court shall
9 enter an order awarding custody to: A relative of the child or to a person
10 with whom the child has close emotional ties who shall not be required to
11 be licensed under article 5 of chapter 65 of the Kansas Statutes Annotated,
12 and amendments thereto; any other suitable person; a shelter facility; a
13 youth residential facility; a staff secure facility, notwithstanding any other
14 provision of law, if the child has been subjected to human trafficking or
15 aggravated human trafficking, as defined by K.S.A. 2014 Supp. 21-5426,
16 and amendments thereto, or commercial sexual exploitation of a child, as
17 defined by K.S.A. 2014 Supp. 21-6422, and amendments thereto, or the
18 child committed an act which, if committed by an adult, would constitute a
19 violation of K.S.A. 2014 Supp. 21-6419, and amendments thereto; or, if
20 the child is 15 years of age or younger, or 16 or 17 years of age if the child
21 has no identifiable parental or family resources or shows signs of physical,
22 mental, emotional or sexual abuse, to the secretary. Custody awarded
23 under this subsection shall continue until further order of the court.

24 (1) When custody is awarded to the secretary, the secretary shall
25 consider any placement recommendation by the court and, *when possible,*
26 *the order of preference established under K.S.A. 38-2270(b), and*
27 *amendments thereto, and shall* notify the court of the placement or
28 proposed placement of the child within 10 days of the order awarding
29 custody. After providing the parties or interested parties notice and
30 opportunity to be heard, the court may determine whether the secretary's
31 placement or proposed placement is contrary to the welfare or in the best
32 interests of the child. In making that determination the court shall consider
33 the health and safety needs of the child and the resources available to meet
34 the needs of children in the custody of the secretary. If the court
35 determines that the placement or proposed placement is contrary to the
36 welfare or not in the best interests of the child, the court shall notify the
37 secretary, who shall then make an alternative placement.

38 (2) The custodian designated under this subsection shall notify the
39 court in writing at least 10 days prior to any planned placement with a
40 parent. The written notice shall state the basis for the custodian's belief that
41 placement with a parent is no longer contrary to the welfare or best interest
42 of the child. Upon reviewing the notice, the court may allow the custodian
43 to proceed with the planned placement or may set the date for a hearing to

1 determine if the child shall be allowed to return home. If the court sets a
2 hearing on the matter, the custodian shall not return the child home without
3 written consent of the court.

4 (3) The court may grant any person reasonable rights to visit the child
5 upon motion of the person and a finding that the visitation rights would be
6 in the best interests of the child.

7 (4) The court may enter an order restraining any alleged perpetrator
8 of physical, mental or emotional abuse or sexual abuse of the child from
9 residing in the child's home; visiting, contacting, harassing or intimidating
10 the child, other family member or witness; or attempting to visit, contact,
11 harass or intimidate the child, other family member or witness. Such
12 restraining order shall be served by personal service pursuant to ~~subsection~~
13 ~~(a)~~ of K.S.A. 2014 Supp. 38-2237(a), and amendments thereto, on any
14 alleged perpetrator to whom the order is directed.

15 (5) The court shall provide a copy of any orders entered within 10
16 days of entering the order to the custodian designated under this
17 subsection.

18 (e) *Further determinations regarding a child removed from the home.*
19 If custody has been awarded under subsection (d) to a person other than a
20 parent, a permanency plan shall be provided or prepared pursuant to
21 K.S.A. 2014 Supp. 38-2264, and amendments thereto. If a permanency
22 plan is provided at the dispositional hearing, the court may determine
23 whether reintegration is a viable alternative or, if reintegration is not a
24 viable alternative, whether the child should be placed for adoption or a
25 permanent custodian appointed. In determining whether reintegration is a
26 viable alternative, the court shall consider:

27 (1) Whether a parent has been found by a court to have committed
28 one of the following crimes or to have violated the law of another state
29 prohibiting such crimes or to have aided and abetted, attempted, conspired
30 or solicited the commission of one of these crimes: (A) Murder in the first
31 degree, K.S.A. 21-3401, prior to its repeal, or K.S.A. 2014 Supp. 21-5402,
32 and amendments thereto; (B) murder in the second degree, K.S.A. 21-
33 3402, prior to its repeal, or K.S.A. 2014 Supp. 21-5403, and amendments
34 thereto; (C) capital murder, K.S.A. 21-3439, prior to its repeal, or K.S.A.
35 2014 Supp. 21-5401, and amendments thereto; (D) voluntary
36 manslaughter, K.S.A. 21-3403, prior to its repeal, or K.S.A. 2014 Supp.
37 21-5404, and amendments thereto; or (E) a felony battery that resulted in
38 bodily injury;

39 (2) whether a parent has subjected the child or another child to
40 aggravated circumstances;

41 (3) whether a parent has previously been found to be an unfit parent
42 in proceedings under this code or in comparable proceedings under the
43 laws of another state or the federal government;

- 1 (4) whether the child has been in extended out of home placement;
- 2 (5) whether the parents have failed to work diligently toward
3 reintegration;
- 4 (6) whether the secretary has provided the family with services
5 necessary for the safe return of the child to the home; and
- 6 (7) whether it is reasonable to expect reintegration to occur within a
7 time frame consistent with the child's developmental needs.
- 8 (f) *Proceedings if reintegration is not a viable alternative.* If the court
9 determines that reintegration is not a viable alternative, proceedings to
10 terminate parental rights and permit placement of the child for adoption or
11 appointment of a permanent custodian shall be initiated unless the court
12 finds that compelling reasons have been documented in the case plan why
13 adoption or appointment of a permanent custodian would not be in the best
14 interests of the child. If compelling reasons have not been documented, the
15 county or district attorney shall file a motion within 30 days to terminate
16 parental rights or a motion to appoint a permanent custodian within 30
17 days and the court shall hold a hearing on the motion within 90 days of its
18 filing. No hearing is required when the parents voluntarily relinquish
19 parental rights or consent to the appointment of a permanent custodian.
- 20 (g) *Additional Orders.* In addition to or in lieu of any other order
21 authorized by this section:
- 22 (1) The court may order the child and the parents of any child who
23 has been adjudicated a child in need of care to attend counseling sessions
24 as the court directs. The expense of the counseling may be assessed as an
25 expense in the case. No mental health provider shall charge a greater fee
26 for court-ordered counseling than the provider would have charged to the
27 person receiving counseling if the person had requested counseling on the
28 person's own initiative.
- 29 (2) If the court has reason to believe that a child is before the court
30 due, in whole or in part, to the use or misuse of alcohol or a violation of
31 K.S.A. 2014 Supp. 21-5701 through 21-5717, and amendments thereto, by
32 the child, a parent of the child, or another person responsible for the care
33 of the child, the court may order the child, parent of the child or other
34 person responsible for the care of the child to submit to and complete an
35 alcohol and drug evaluation by a qualified person or agency and comply
36 with any recommendations. If the evaluation is performed by a
37 community-based alcohol and drug safety program certified pursuant to
38 K.S.A. 8-1008, and amendments thereto, the child, parent of the child or
39 other person responsible for the care of the child shall pay a fee not to
40 exceed the fee established by that statute. If the court finds that the child
41 and those legally liable for the child's support are indigent, the fee may be
42 waived. In no event shall the fee be assessed against the secretary.
- 43 (3) If child support has been requested and the parent or parents have

1 a duty to support the child, the court may order one or both parents to pay
2 child support and, when custody is awarded to the secretary, the court shall
3 order one or both parents to pay child support. The court shall determine,
4 for each parent separately, whether the parent is already subject to an order
5 to pay support for the child. If the parent is not presently ordered to pay
6 support for any child who is subject to the jurisdiction of the court and the
7 court has personal jurisdiction over the parent, the court shall order the
8 parent to pay child support in an amount determined under K.S.A. 2014
9 Supp. 38-2277, and amendments thereto. Except for good cause shown,
10 the court shall issue an immediate income withholding order pursuant to
11 K.S.A. 2014 Supp. 23-3101 et seq., and amendments thereto, for each
12 parent ordered to pay support under this subsection, regardless of whether
13 a payor has been identified for the parent. A parent ordered to pay child
14 support under this subsection shall be notified, at the hearing or otherwise,
15 that the child support order may be registered pursuant to K.S.A. 2014
16 Supp. 38-2279, and amendments thereto. The parent shall also be informed
17 that, after registration, the income withholding order may be served on the
18 parent's employer without further notice to the parent and the child support
19 order may be enforced by any method allowed by law. Failure to provide
20 this notice shall not affect the validity of the child support order.

21 Sec. 4. K.S.A. 2014 Supp. 38-2258 is hereby amended to read as
22 follows: 38-2258. (a) Except as provided in K.S.A. 2014 Supp. 38-2255(d)
23 (2) and 38-2259, and amendments thereto, if a child has been in the same
24 foster home or shelter facility for six months or longer, or has been placed
25 by the secretary in the home of a parent or relative, the secretary shall give
26 *30 days'* written notice of any plan to move the child to a different
27 placement unless the move is to the selected preadoptive family for the
28 purpose of facilitating adoption. The notice shall be given to: (1) The court
29 having jurisdiction over the child; (2) the petitioner; (3) the attorney for
30 the parents, if any; (4) each parent whose address is available; (5) the
31 foster parent or custodian from whose home or shelter facility it is
32 proposed to remove the child; (6) the child, if 12 or more years of age; (7)
33 the child's guardian ad litem; (8) any other party or interested party; and
34 (9) the child's court appointed special advocate.

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

41 (c) Within 14 days after receipt of the notice, any person enumerated
42 in subsection (a)(2) through (8) receiving notice as provided above may
43 request, either orally or in writing, that the court conduct a hearing to

1 determine whether or not the change in placement is in the best interests of
2 the child concerned. When the request has been received, the court shall
3 schedule a hearing, *to be held within 7 days*, and immediately notify the
4 secretary of the request and the time and date the matter will be heard. The
5 court shall give notice of the hearing to persons enumerated in subsection
6 (a)(2) through (9). If the court does not receive a request for hearing within
7 the specified time, the change in placement may occur prior to the
8 expiration of the 30 days. The secretary shall not change the placement of
9 the child, except for the purpose of adoption, unless the change is
10 approved by the court.

11 (d) When, after the notice set out above, a child in the custody of the
12 secretary is removed from the home of a parent after having been placed in
13 the home of a parent for a period of six months or longer, the secretary
14 shall request a finding that:

15 (1) (A) The child is likely to sustain harm if not immediately removed
16 from the home;

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

19 (C) immediate placement of the child is in the best interest of the
20 child; and

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

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

32 (f) (1) *Except as provided in K.S.A. 2014 Supp. 38-2255(d)(2) and*
33 *38-2259, and amendments thereto, if a child has been in the same foster*
34 *home for more than 30 days, but less than six months, the private child*
35 *placing agency shall give 72 hours' written notice to the foster parent of*
36 *any plan to move the child to a different placement.*

37 (2) *Each private child placing agency shall develop and implement*
38 *an internal grievance process, consistent with this section, through which*
39 *a foster parent can object to a planned change of placement as described*
40 *in subsection (f)(1).*

41 (3) *The written notice provided by the private child placing agency*
42 *under subsection (f)(1) shall state the reason for the change of placement*
43 *and provide the foster parent with information about accessing the*

1 *agency's internal grievance process.*

2 (4) *If a foster parent objects to the change of placement pursuant to*
3 *the internal grievance process established pursuant to subsection (f)(2),*
4 *the child shall not be moved to a different placement until the grievance*
5 *process has been concluded.*

6 (5) *The decision reached following the grievance process shall not be*
7 *appealable to the district court or any appellate court in the state of*
8 *Kansas.*

9 Sec. 5. K.S.A. 2014 Supp. 38-2270 is hereby amended to read as
10 follows: 38-2270. (a) When parental rights have been terminated and it
11 appears that adoption is a viable alternative, the court shall enter one of the
12 following orders:

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

21 (2) An order granting custody of the child to proposed adoptive
22 parents and consenting to the adoption of the child by the proposed
23 adoptive parents.

24 (b) In making an order under subsection (a), the court shall give
25 preference, to the extent that the court finds it is in the best interests of the
26 child, first to granting such custody for adoption to a relative of the child
27 and second to granting such custody to a person with whom the child has
28 close emotional ties. *For purposes of this section, a person with whom the*
29 *child has close emotional ties may include a foster parent.*

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

34 Sec. 6. K.S.A. 2014 Supp. 38-2212, 38-2255, 38-2258 and 38-2270
35 are hereby repealed.

36 Sec. 7. This act shall take effect and be in force from and after its
37 publication in the statute book.