

## HOUSE BILL No. 2554

By Committee on Child Welfare and Foster Care

Requested by John Monroe, The Center for the Rights of Abused Children

1-18

---

1 AN ACT concerning children and minors; relating to the secretary for  
2 children and families; directing the secretary to identify relatives of  
3 children alleged or adjudicated to be a child in need of care; requiring  
4 the secretary to file efforts to find relatives or persons with whom the  
5 child has close emotional ties and send notice to such persons of the  
6 custody of the child; amending K.S.A. 38-2264 and K.S.A. 2023 Supp.  
7 38-2243 and repealing the existing sections.  
8

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

10 New Section 1. (a) When the court issues an order directing who shall  
11 have temporary custody of a child pursuant to K.S.A. 38-2243, and  
12 amendments thereto, the secretary shall search, identify and notify adult  
13 relatives of the child who is the subject of the proceedings or persons with  
14 whom the child has close emotional ties within 30 days of the court order.

15 (b) The secretary's search to identify adult relatives of the child or  
16 persons with whom the child has close emotional ties shall include:

- 17 (1) An interview with the child's parents;
- 18 (2) an interview with the child;
- 19 (3) interviews with identified adult relatives;
- 20 (4) interviews with other persons who are likely to have information  
21 regarding the location of adult relatives of the child or persons with whom  
22 the child has close emotional ties;
- 23 (5) inquiries of the parties of the child in need of care proceeding  
24 conducted by the court;
- 25 (6) a comprehensive search of databases that include access to:
  - 26 (A) Employment records;
  - 27 (B) vehicle registration records;
  - 28 (C) child support enforcement records;
  - 29 (D) utility accounts;
  - 30 (E) previous residential addresses;
  - 31 (F) law enforcement agency records;
  - 32 (G) department of corrections records; and
  - 33 (H) any other records that are likely to result in identifying and  
34 locating adult relatives of the child; and
- 35 (7) any other means that are likely to identify adult relatives of the

1 child or persons with whom the child has close emotional ties.

2 (c) Within 30 days of a court order issued pursuant to K.S.A. 38-  
3 2243, and amendments thereto, and at each subsequent hearing for the  
4 child in need of care proceeding, the secretary shall file with the court a  
5 report of such secretary's efforts to comply with subsection (a). The report  
6 shall include:

7 (1) Whether adult relatives of the child or persons with whom the  
8 child has close emotional ties have accepted or rejected consideration for  
9 the child's placement and any person who has responded to the notice  
10 received pursuant to subsection (d);

11 (2) the status of the secretary's efforts to consider such relatives and  
12 persons as a placement for the child; and

13 (3) documentation of unresponsiveness from relatives and persons  
14 who received notice pursuant to subsection (d).

15 (d) Unless safety concerns exist that are known to the secretary, the  
16 secretary shall provide notice by certified mail to adult relatives of the  
17 child and persons with whom the child has close emotional ties as  
18 identified according to the requirements of this section. The notice shall  
19 include:

20 (1) Information that the child has been or is being removed from  
21 parental custody;

22 (2) options available to an adult relative or a person with whom a  
23 child has close emotional ties for participating in the care or placement of  
24 the child;

25 (3) information on financial assistance or other forms of support that  
26 are available to whomever the child may be placed;

27 (4) a description of the process for becoming a licensed foster home  
28 and a list of services and support that are available for children placed in  
29 licensed foster homes;

30 (5) information for responding to the secretary's notice; and

31 (6) a statement that failure to respond within 30 days of the date of  
32 the notice may result in the secretary not considering for placement the  
33 adult relative or the person with whom the child has close emotional ties.  
34 An adult relative or a person who fails to respond within 30 days of the  
35 date of the notice and subsequently wishes to become the child's placement  
36 shall show by clear and convincing evidence that a change in placement is  
37 in the best interests of such child.

38 (e) The secretary shall continue to search for adult relatives of the  
39 child or a person with whom the child has close emotional ties, if ordered  
40 by the court, for up to six months from the order directing who shall have  
41 temporary custody of a child pursuant to K.S.A. 38-2243, and amendments  
42 thereto, or a change in the child's placement.

43 (f) On the date of a permanency hearing held pursuant to K.S.A. 38-

1 2264, and amendments thereto, the secretary shall report to the court the  
2 intensive, ongoing and, as of the date of the hearing, unsuccessful  
3 permanency efforts made by the secretary to return the child home or  
4 secure a placement for the child with a fit and willing relative, a legal  
5 guardian or an adoptive parent.

6 (g) This section shall be a part of and supplemental the revised  
7 Kansas code for care of children.

8 Sec. 2. K.S.A. 2023 Supp. 38-2243 is hereby amended to read as  
9 follows: 38-2243. (a) Upon notice and hearing, the court may issue an  
10 order directing who shall have temporary custody and may modify the  
11 order during the pendency of the proceedings as will best serve the child's  
12 welfare.

13 (b) A hearing pursuant to this section shall be held within 72 hours,  
14 excluding Saturdays, Sundays, legal holidays, and days on which the  
15 office of the clerk of the court is not accessible, following a child having  
16 been taken into protective custody.

17 (c) Whenever it is determined that a temporary custody hearing is  
18 required, the court shall immediately set the time and place for the hearing.  
19 Notice of a temporary custody hearing shall be given to all parties and  
20 interested parties.

21 (d) Notice of the temporary custody hearing shall be given at least 24  
22 hours prior to the hearing. The court may continue the hearing to afford the  
23 24 hours prior notice or, with the consent of the party or interested party,  
24 proceed with the hearing at the designated time. If an order of temporary  
25 custody is entered and the parent or other person having custody of the  
26 child has not been notified of the hearing, did not appear or waive  
27 appearance and requests a rehearing, the court shall rehear the matter  
28 without unnecessary delay.

29 (e) Oral notice may be used for giving notice of a temporary custody  
30 hearing where there is insufficient time to give written notice. Oral notice  
31 is completed upon filing a certificate of oral notice.

32 (f) The court may enter an order of temporary custody after  
33 determining there is probable cause to believe that the:

- 34 (1) Child is dangerous to self or to others;
- 35 (2) child is not likely to be available within the jurisdiction of the  
36 court for future proceedings;
- 37 (3) health or welfare of the child may be endangered without further  
38 care;
- 39 (4) child has been subjected to human trafficking or aggravated  
40 human trafficking, as defined by K.S.A. 21-5426, and amendments  
41 thereto, or commercial sexual exploitation of a child, as defined by K.S.A.  
42 21-6422, and amendments thereto;
- 43 (5) child is experiencing a mental health crisis and is in need of

1 treatment; or

2 (6) child committed an act which, if committed by an adult, would  
3 constitute a violation of K.S.A. 21-6419, and amendments thereto.

4 (g) (1) Whenever the court determines the necessity for an order of  
5 temporary custody the court may place the child in the temporary custody  
6 of:

7 (A) A parent or other person having custody of the child and may  
8 enter a restraining order pursuant to subsection (h);

9 (B) a person, other than the parent or other person having custody,  
10 who shall not be required to be licensed under article 5 of chapter 65 of the  
11 Kansas Statutes Annotated, and amendments thereto;

12 (C) a youth residential facility;

13 (D) a shelter facility;

14 (E) a staff secure facility, notwithstanding any other provision of law,  
15 if the child has been subjected to human trafficking or aggravated human  
16 trafficking, as defined by K.S.A. 21-5426, and amendments thereto, or  
17 commercial sexual exploitation of a child, as defined by K.S.A. 21-6422,  
18 and amendments thereto, or the child committed an act which, if  
19 committed by an adult, would constitute a violation of K.S.A. 21-6419,  
20 and amendments thereto;

21 (F) after written authorization by a community mental health center, a  
22 juvenile crisis intervention center, as described in K.S.A. 65-536, and  
23 amendments thereto; or

24 (G) the secretary, if the child is 15 years of age or younger, or 16 or  
25 17 years of age if the child has no identifiable parental or family resources  
26 or shows signs of physical, mental, emotional or sexual abuse.

27 (2) If the secretary presents the court with a plan to provide services  
28 to a child or family which the court finds will assure the safety of the  
29 child, the court may only place the child in the temporary custody of the  
30 secretary until the court finds the services are in place. The court shall  
31 have the authority to require any person or entity agreeing to participate in  
32 the plan to perform as set out in the plan. When the child is placed in the  
33 temporary custody of the secretary, the secretary shall have the  
34 discretionary authority to place the child with a parent or to make other  
35 suitable placement for the child. When the child is placed in the temporary  
36 custody of the secretary and the child has been subjected to human  
37 trafficking or aggravated human trafficking, as defined by K.S.A. 21-5426,  
38 and amendments thereto, or commercial sexual exploitation of a child, as  
39 defined by K.S.A. 21-6422, and amendments thereto, or the child  
40 committed an act which, if committed by an adult, would constitute a  
41 violation of K.S.A. 21-6419, and amendments thereto, the secretary shall  
42 have the discretionary authority to place the child in a staff secure facility,  
43 notwithstanding any other provision of law. When the child is presently

1 alleged, but not yet adjudicated to be a child in need of care solely  
2 pursuant to K.S.A. 38-2202(d)(9) or (d)(10), and amendments thereto, the  
3 child may be placed in a secure facility, but the total amount of time that  
4 the child may be held in such facility under this section and K.S.A. 38-  
5 2242, and amendments thereto, shall not exceed 24 hours, excluding  
6 Saturdays, Sundays, legal holidays, and days on which the office of the  
7 clerk of the court is not accessible. The order of temporary custody shall  
8 remain in effect until modified or rescinded by the court or an adjudication  
9 order is entered but not exceeding 60 days, unless good cause is shown  
10 and stated on the record.

11 (h) If the court issues an order of temporary custody, the court may  
12 also enter an order restraining any alleged perpetrator of physical, sexual,  
13 mental or emotional abuse of the child from residing in the child's home;  
14 visiting, contacting, harassing or intimidating the child; or attempting to  
15 visit, contact, harass or intimidate the child, other family members or  
16 witnesses. Such restraining order shall be served by personal service  
17 pursuant to K.S.A. 38-2237(a), and amendments thereto, on any alleged  
18 perpetrator to whom the order is directed.

19 (i) (1) The court shall not enter the initial order removing a child from  
20 the custody of a parent pursuant to this section unless the court first finds  
21 probable cause that:

22 (A) (i) The child is likely to sustain harm if not immediately removed  
23 from the home;

24 (ii) allowing the child to remain in home is contrary to the welfare of  
25 the child; or

26 (iii) immediate placement of the child is in the best interest of the  
27 child; and

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

31 (2) Such findings shall be included in any order entered by the court.  
32 If the child is placed in the custody of the secretary, upon making the order  
33 the court shall provide the secretary with a written copy.

34 (j) If the court enters an order of temporary custody that provides for  
35 placement of the child with a person other than the parent, the court shall  
36 make a child support determination pursuant to K.S.A. 38-2277, and  
37 amendments thereto.

38 (k) *If the court enters an order of temporary custody, the court shall*  
39 *order the secretary to search, identify and notify adult relatives or persons*  
40 *with whom the child has close emotional ties for future placement*  
41 *pursuant to section 1, and amendments thereto.*

42 (l) For the purposes of this section, "harassing or intimidating" and  
43 "harass or intimidate" includes, but is not limited to, utilizing any

1 electronic tracking system or acquiring tracking information to determine  
2 the targeted person's location, movement or travel patterns.

3 Sec. 3. K.S.A. 38-2264 is hereby amended to read as follows: 38-  
4 2264. (a) A permanency hearing is a proceeding conducted by the court or  
5 by a citizen review board for the purpose of determining progress toward  
6 accomplishment of a permanency plan as established by K.S.A. 38-2263,  
7 and amendments thereto.

8 (b) The court or a citizen review board shall hear and the court shall  
9 determine whether and, if applicable, when the child will be:

- 10 (1) Reintegrated with the child's parents;  
11 (2) placed for adoption;  
12 (3) placed with a permanent custodian; or  
13 (4) if the child is 16 years of age or older and the secretary has  
14 documented compelling reasons why it would not be in the child's best  
15 interests for a placement in one of the placements pursuant to paragraphs  
16 (1), (2) or (3), placed in another planned permanent living arrangement.

17 (c) At each permanency hearing, the court shall:

18 (1) Enter a finding as to whether reasonable efforts have been made  
19 by appropriate public or private agencies to rehabilitate the family and  
20 achieve the permanency goal in place at the time of the hearing;

21 (2) enter a finding as to whether the reasonable and prudent parenting  
22 standard has been met and whether the child has regular, ongoing  
23 opportunities to engage in age or developmentally appropriate activities.  
24 The secretary shall report to the court the steps the secretary is taking to  
25 ensure that the child's foster family home or child care institution is  
26 following the reasonable and prudent parenting standard and that the child  
27 has regular, ongoing opportunities to engage in age or developmentally  
28 appropriate activities, including consultation with the child in an age-  
29 appropriate manner about the opportunities of the child to participate in the  
30 activities;

31 (3) if the child is 14 years of age or older, document the efforts made  
32 by the secretary to help the child prepare for the transition from custody to  
33 a successful adulthood. The secretary shall report to the court the programs  
34 and services that are being provided to the child that will help the child  
35 prepare for the transition from custody to a successful adulthood.

36 (d) The requirements of this subsection shall apply only if the  
37 permanency goal in place at the time of the hearing is another planned  
38 permanent living arrangement as described in subsection (b)(4). At each  
39 permanency hearing held with respect to the child, in addition to the  
40 requirements of subsection (c), the court shall:

41 (1) Ask the child, if the child is able, by attendance at the hearing or  
42 by report to the court, about the desired permanency outcome for the child;

43 (2) document the intensive, ongoing and, as of the date of the hearing,

1 unsuccessful permanency efforts made *and reported* by the secretary to  
2 return the child home or secure a placement for the child with a fit and  
3 willing relative, a legal guardian or an adoptive parent. ~~The secretary shall~~  
4 ~~report to the court the intensive, ongoing and, as of the date of the hearing,~~  
5 ~~unsuccessful efforts made by the secretary to return the child home or~~  
6 ~~secure a placement for the child with a fit and willing relative, a legal~~  
7 ~~guardian or an adoptive parent, including efforts that utilize search~~  
8 ~~technology, including social media, to find biological family members of~~  
9 ~~the children pursuant to section 1, and amendments thereto; and~~

10 (3) make a judicial determination explaining why, as of the date of  
11 the hearing, another planned permanent living arrangement is the best  
12 permanency plan for the child and provide compelling reasons why it  
13 continues to not be in the best interests of the child to return home, be  
14 placed for adoption, be placed with a legal guardian or be placed with a fit  
15 and willing relative.

16 (e) The requirements of this subsection shall apply only if the child is  
17 placed in a qualified residential treatment program at the time of the  
18 permanency hearing. At each permanency hearing held with respect to the  
19 child, in addition to the requirements of subsection (c), the court shall  
20 document:

21 (1) That the ongoing assessment of the strengths and needs of the  
22 child continues to support the determination that the needs of the child  
23 cannot be met through placement in a foster family home, that the  
24 placement in a qualified residential treatment program provides the most  
25 effective and appropriate level of care for the child in the least restrictive  
26 environment, and that the placement is consistent with the short-term and  
27 long-term goals for the child, as specified in the permanency plan for the  
28 child;

29 (2) the specific treatment or service needs that will be met for the  
30 child in the placement and the length of time the child is expected to need  
31 the treatment or services; and

32 (3) the efforts made by the secretary to prepare the child to return  
33 home or to be placed with a fit and willing relative, a legal guardian, or an  
34 adoptive parent, or in a foster family home.

35 (f) A permanency hearing shall be held within 12 months of the date  
36 the court authorized the child's removal from the home and not less  
37 frequently than every 12 months thereafter. If the court makes a finding  
38 that the requirements of subsection (c)(1) or (2) have not been met, a  
39 subsequent permanency hearing shall be held no later than 60 days  
40 following the finding.

41 (g) If the court determines at any time other than during a  
42 permanency hearing that reintegration may not be a viable alternative for  
43 the child, a permanency hearing shall be held no later than 30 days

1 following that determination.

2 (h) When the court finds that reintegration continues to be a viable  
3 alternative, the court shall determine whether and, if applicable, when the  
4 child will be returned to the parent. The court may rescind any of its prior  
5 dispositional orders and enter any dispositional order authorized by this  
6 code or may order that a new plan for the reintegration be prepared and  
7 submitted to the court. If reintegration cannot be accomplished as  
8 approved by the court, the court shall be informed and shall schedule a  
9 hearing pursuant to this section. No such hearing is required when the  
10 parents voluntarily relinquish parental rights or consent to appointment of  
11 a permanent custodian.

12 (i) If the court finds reintegration is no longer a viable alternative, the  
13 court shall consider whether: (1) The child is in a stable placement with a  
14 relative; (2) services set out in the case plan necessary for the safe return  
15 of the child have been made available to the parent with whom  
16 reintegration is planned; or (3) compelling reasons are documented in the  
17 case plan to support a finding that neither adoption nor appointment of a  
18 permanent custodian are in the child's best interest. If reintegration is not a  
19 viable alternative and either adoption or appointment of a permanent  
20 custodian might be in the best interests of the child, the county or district  
21 attorney or the county or district attorney's designee shall file a motion to  
22 terminate parental rights or a motion to appoint a permanent custodian  
23 within 30 days and the court shall set a hearing on such motion within 90  
24 days of the filing of such motion.

25 (j) If the court enters an order terminating parental rights to a child, or  
26 an agency has accepted a relinquishment pursuant to K.S.A. 59-2124, and  
27 amendments thereto, the requirements for permanency hearings shall  
28 continue until an adoption or appointment of a permanent custodian has  
29 been accomplished. If the court determines that reasonable efforts or  
30 progress have not been made toward finding an adoptive placement or  
31 appointment of a permanent custodian or placement with a fit and willing  
32 relative, the court may rescind its prior orders and make others regarding  
33 custody and adoption that are appropriate under the circumstances.  
34 Reports of a proposed adoptive placement need not contain the identity of  
35 the proposed adoptive parents.

36 (k) If permanency with one parent has been achieved without the  
37 termination of the other parent's rights, the court may, prior to dismissing  
38 the case, enter child custody orders, including residency and parenting  
39 time that the court determines to be in the best interests of the child. The  
40 court shall complete a parenting plan pursuant to K.S.A. 23-3213, and  
41 amendments thereto.

42 (1) Before entering a custody order under this subsection, the court  
43 shall inquire whether a custody order has been entered or is pending in a



1 civil custody case by a court of competent jurisdiction within the state of  
2 Kansas.

3 (2) If a civil custody case has been filed or is pending, a certified  
4 copy of the custody, residency and parenting time orders shall be filed in  
5 the civil custody case. The court in the civil custody case may, after  
6 consultation with the court in the child in need of care case, enter an order  
7 declaring that the custody order in the child in need of care case shall  
8 become the custody order in the civil custody case.

9 (3) A district court, on its own motion or upon the motion of any  
10 party, may order the consolidation of the child in need of care case with  
11 any open civil custody case involving the child and both of the child's  
12 parents. Custody, residency and parenting time orders entered in  
13 consolidated child in need of care and civil custody cases take precedence  
14 over any previous orders affecting both parents and the child that were  
15 entered in the civil custody case regarding the same or related issues.  
16 Following entry of a custody order in a consolidated case, the court shall  
17 dismiss the child in need of care case and, if necessary, return the civil  
18 custody case to the original court having jurisdiction over it.

19 (4) If no civil custody case has been filed, the court may direct the  
20 parties to file a civil custody case and to file the custody orders from the  
21 child in need of care case in that case. Costs of the civil custody case may  
22 be assessed to the parties.

23 (5) Nothing in this subsection shall operate to expand access to  
24 information that is confidential under K.S.A. 38-2209, and amendments  
25 thereto, and the confidentiality of such information shall be preserved in  
26 all filings in a civil custody case.

27 (1) When permanency has been achieved to the satisfaction of the  
28 court, the court shall enter an order closing the case.

29 Sec. 4. K.S.A. 38-2264 and K.S.A. 2023 Supp. 38-2243 are hereby  
30 repealed.

31 Sec. 5. This act shall take effect and be in force from and after its  
32 publication in the statute book.