

# Journal of the House

FORTY-SEVENTH DAY

---

HALL OF THE HOUSE OF REPRESENTATIVES,  
TOPEKA, KS, Monday, March 20, 2023, 11:00 a.m.

The House met session pro forma pursuant to adjournment with Speaker Hawkins in the chair.

## INTRODUCTION OF BILLS AND CONCURRENT RESOLUTIONS

The following bills were introduced and read by title:

**HB 2466**, AN ACT concerning building codes or permit requirements; relating to registered agritourism locations; excluding such locations from building codes or permit requirements, by Committee on Taxation.

**HB 2467**, AN ACT concerning abortion; revising the definition of abortion; excluding certain procedures from the definition; amending K.S.A. 40-2,190, 65-4a01, 65-6701, 65-6723 and 65-6742 and repealing the existing sections, by Committee on Federal and State Affairs.

## CHANGE OF REFERENCE

Speaker Hawkins announced the withdrawal of **HB 2139** from Committee on Judiciary and re-referral to Committee on Education.

## MESSAGE FROM THE GOVERNOR

The following message with the Governor's objection to **HB 2238**, AN ACT concerning education; relating to student athletes; creating the fairness in women's sports act; restricting participation on women's teams to female students; providing a cause of action for violations of the act. was received and read.

## MESSAGE FROM THE GOVERNOR REGARDING VETO OF HOUSE BILL 2238

As I've said before, we all want a fair and safe place for our kids to play and compete.

That's why I support the Kansas State High School Activities Association, which was set up to ensure nobody has an unfair advantage on the playing field. The Legislature should let the Association do its job.

Let's be clear about what this bill is all about-politics. It won't increase any test scores. It won't help any kids read or write. It won't help any teachers prepare our kids for the real world. Here's what this bill would actually do: harm the mental health of our students. That's exactly why Republican governors have joined me in vetoing similar bills.

This bill would also reverse the progress we've made in recruiting businesses and creating jobs. It would send a signal to prospective companies that Kansas is more focused on unnecessary and divisive legislation than becoming a place where young people want to work and raise a family.

Therefore, under Article 2, Section 14(a) of the Constitution, I hereby veto House Bill 2238.

BY THE GOVERNOR

LAURA KELLY

MARCH 17, 2023

## REPORTS OF STANDING COMMITTEES

Committee on **Child Welfare and Foster Care** recommends **HB 2194** be amended on page 1, in line 7, before "Section" by inserting "New";

On page 2, in line 26, after the semicolon by inserting:

"(18) report a violation of this section without fear of punishment, interference, coercion or retaliation;";

Also on page 2, in line 38, after "parents" by inserting "and kinship caregivers"; in line 40, after "parents" by inserting "and kinship caregivers";

On page 3, in line 2, by striking all after "discriminated"; in line 3, by striking all before "in"; in line 4, after "with" by inserting "the Kansas act against discrimination,"; in line 6, after "parents" by inserting "and kinship caregivers"; in line 16, by striking "and" and inserting a comma; in line 17, after "parents" by inserting "and kinship caregivers"; in line 19, after "parents" by inserting "and kinship caregivers"; in line 29, after "family" by inserting ", the kinship care placement"; in line 36, after "parents" by inserting "and kinship caregivers"; in line 37, after "parents" by inserting "and kinship caregivers";

On page 4, in line 3, after "parents" by inserting "and kinship caregivers"; in line 22, after "parents" by inserting "or kinship caregivers"; in line 24, after "parents" by inserting "and kinship caregivers"; in line 38, after "(d)" by inserting "(1) The secretary shall provide written and oral notification to foster youth, foster parents and kinship caregivers of the rights created under this section and information for filing complaints.

(2) The secretary shall make a list of the rights created under this section digitally available on the secretary's website.

(3) Each child welfare management provider shall make available physical and digital copies of a list of the rights created under this section.

(e) This section shall not be construed to create a private right of action independent of the revised Kansas code for care of children, but may be enforced through equitable relief as a part of the corresponding case under the revised Kansas

code for care of children.

(f)";

And by redesignating subsections, paragraphs, subparagraphs and clauses accordingly;

Also on page 4, following line 39, by inserting:

"Sec. 2. K.S.A. 38-2202 is hereby amended to read as follows: 38-2202. As used in the revised Kansas code for care of children, unless the context otherwise indicates:

(a) "Abandon" or "abandonment" means to forsake, desert or, without making appropriate provision for substitute care, cease providing care for the child.

(b) "Adult correction facility" means any public or private facility, secure or nonsecure, that is used for the lawful custody of accused or convicted adult criminal offenders.

(c) "Aggravated circumstances" means the abandonment, torture, chronic abuse, sexual abuse or chronic, life threatening neglect of a child.

(d) "Child in need of care" means a person less than 18 years of age at the time of filing of the petition or issuance of an ex parte protective custody order pursuant to K.S.A. 38-2242, and amendments thereto, who:

(1) Is without adequate parental care, control or subsistence and the condition is not due solely to the lack of financial means of the child's parents or other custodian;

(2) is without the care or control necessary for the child's physical, mental or emotional health;

(3) has been physically, mentally or emotionally abused or neglected or sexually abused;

(4) has been placed for care or adoption in violation of law;

(5) has been abandoned or does not have a known living parent;

(6) is not attending school as required by K.S.A. 72-3421 or 72-3120, and amendments thereto;

(7) except in the case of a violation of K.S.A. 41-727, K.S.A. 74-8810(j), K.S.A. 79-3321(m) or (n), or K.S.A. 2022 Supp. 21-6301(a)(14), and amendments thereto, or, except as provided in paragraph (12), does an act which, when committed by a person under 18 years of age, is prohibited by state law, city ordinance or county resolution, but which is not prohibited when done by an adult;

(8) while less than 10 years of age, commits any act that if done by an adult would constitute the commission of a felony or misdemeanor as defined by K.S.A. 2022 Supp. 21-5102, and amendments thereto;

(9) is willfully and voluntarily absent from the child's home without the consent of the child's parent or other custodian;

(10) is willfully and voluntarily absent at least a second time from a court ordered or designated placement, or a placement pursuant to court order, if the absence is without the consent of the person with whom the child is placed or, if the child is placed in a facility, without the consent of the person in charge of such facility or such person's designee;

(11) has been residing in the same residence with a sibling or another person under 18 years of age, who has been physically, mentally or emotionally abused or neglected, or sexually abused;

(12) while less than 10 years of age commits the offense defined in K.S.A. 2022 Supp. 21-6301(a)(14), and amendments thereto;

(13) has had a permanent custodian appointed and the permanent custodian is no longer able or willing to serve; or

(14) has been subjected to an act that would constitute human trafficking or aggravated human trafficking, as defined by K.S.A. 2022 Supp. 21-5426, and amendments thereto, or commercial sexual exploitation of a child, as defined by K.S.A. 2022 Supp. 21-6422, and amendments thereto, or has committed an act which, if committed by an adult, would constitute selling sexual relations, as defined by K.S.A. 2022 Supp. 21-6419, and amendments thereto.

(e) "Citizen review board" is a group of community volunteers appointed by the court and whose duties are prescribed by K.S.A. 38-2207 and 38-2208, and amendments thereto.

(f) "Civil custody case" includes any case filed under chapter 23 of the Kansas Statutes Annotated, and amendments thereto, the Kansas family law code, article 11 of chapter 38 of the Kansas Statutes Annotated, and amendments thereto, determination of parentage, article 21 of chapter 59 of the Kansas Statutes Annotated, and amendments thereto, adoption and relinquishment act, or article 30 of chapter 59 of the Kansas Statutes Annotated, and amendments thereto, guardians and conservators.

(g) "Court-appointed special advocate" means a responsible adult other than an attorney guardian ad litem who is appointed by the court to represent the best interests of a child, as provided in K.S.A. 38-2206, and amendments thereto, in a proceeding pursuant to this code.

(h) "Custody" whether temporary, protective or legal, means the status created by court order or statute that vests in a custodian, whether an individual or an agency, the right to physical possession of the child and the right to determine placement of the child, subject to restrictions placed by the court.

(i) "Extended out of home placement" means a child has been in the custody of the secretary and placed with neither parent for 15 of the most recent 22 months beginning 60 days after the date at which a child in the custody of the secretary was removed from the child's home.

(j) "Educational institution" means all schools at the elementary and secondary levels.

(k) "Educator" means any administrator, teacher or other professional or paraprofessional employee of an educational institution who has exposure to a pupil specified in K.S.A. 72-6143(a), and amendments thereto.

(l) "Harm" means physical or psychological injury or damage.

(m) "Interested party" means the grandparent of the child, a person with whom the child has been living for a significant period of time when the child in need of care petition is filed, and any person made an interested party by the court pursuant to K.S.A. 38-2241, and amendments thereto, or Indian tribe seeking to intervene that is not a party.

(n) "Jail" means:

(1) An adult jail or lockup; or

(2) a facility in the same building or on the same grounds as an adult jail or lockup, unless the facility meets all applicable standards and licensure requirements under law and there is: (A) Total separation of the juvenile and adult facility spatial areas such that there could be no haphazard or accidental contact between juvenile and adult residents in the respective facilities; (B) total separation in all juvenile and adult program

activities within the facilities, including recreation, education, counseling, health care, dining, sleeping and general living activities; and (C) separate juvenile and adult staff, including management, security staff and direct care staff such as recreational, educational and counseling.

(o) "Juvenile detention facility" means any secure public or private facility used for the lawful custody of accused or adjudicated juvenile offenders that must not be a jail.

(p) "Juvenile intake and assessment worker" means a responsible adult authorized to perform intake and assessment services as part of the intake and assessment system established pursuant to K.S.A. 75-7023, and amendments thereto.

(q) "Kinship care placement" means the placement of a child in the home of an adult with whom the child or the child's parent already has close emotional ties.

(r) "Kinship caregiver" means an adult who the secretary has selected for placement for a child in need of care with whom the child or the child's parent already has close emotional ties.

(s) "Law enforcement officer" means any person who by virtue of office or public employment is vested by law with a duty to maintain public order or to make arrests for crimes, whether that duty extends to all crimes or is limited to specific crimes.

~~(s)~~(t) "Multidisciplinary team" means a group of persons, appointed by the court under K.S.A. 38-2228, and amendments thereto, that has knowledge of the circumstances of a child in need of care.

~~(t)~~(u) "Neglect" means acts or omissions by a parent, guardian or person responsible for the care of a child resulting in harm to a child, or presenting a likelihood of harm, and the acts or omissions are not due solely to the lack of financial means of the child's parents or other custodian. Neglect may include, but shall not be limited to:

(1) Failure to provide the child with food, clothing or shelter necessary to sustain the life or health of the child;

(2) failure to provide adequate supervision of a child or to remove a child from a situation that requires judgment or actions beyond the child's level of maturity, physical condition or mental abilities and that results in bodily injury or a likelihood of harm to the child; or

(3) failure to use resources available to treat a diagnosed medical condition if such treatment will make a child substantially more comfortable, reduce pain and suffering, or correct or substantially diminish a crippling condition from worsening. A parent legitimately practicing religious beliefs who does not provide specified medical treatment for a child because of religious beliefs shall, not for that reason, be considered a negligent parent; however, this exception shall not preclude a court from entering an order pursuant to K.S.A. 38-2217(a)(2), and amendments thereto.

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

~~(v)~~(w) "Party" means the state, the petitioner, the child, any parent of the child and an Indian child's tribe intervening pursuant to the Indian child welfare act.

~~(w)~~(x) "Permanency goal" means the outcome of the permanency planning process, which may be reintegration, adoption, appointment of a permanent custodian or another planned permanent living arrangement.

~~(x)~~(y) "Permanent custodian" means a judicially approved permanent guardian of a child pursuant to K.S.A. 38-2272, and amendments thereto.

~~(y)~~(z) "Physical, mental or emotional abuse" means the infliction of physical,

mental or emotional harm or the causing of a deterioration of a child and may include, but shall not be limited to, maltreatment or exploiting a child to the extent that the child's health or emotional well-being is endangered.

~~(z)~~(aa) "Placement" means the designation by the individual or agency having custody of where and with whom the child will live.

~~(aa)~~(bb) "Qualified residential treatment program" means a program designated by the secretary for children and families as a qualified residential treatment program pursuant to federal law.

~~(bb)~~(cc) "Reasonable and prudent parenting standard" means the standard characterized by careful and sensible parental decisions that maintain the health, safety and best interests of a child while at the same time encouraging the emotional and developmental growth of the child, that a caregiver shall use when determining whether to allow a child in foster care under the responsibility of the state to participate in extracurricular, enrichment, cultural and social activities.

~~(ee)~~(dd) "Relative" means a person related by blood, marriage or adoption.

~~(dd)~~(ee) "Runaway" means a child who is willfully and voluntarily absent from the child's home without the consent of the child's parent or other custodian.

~~(ee)~~(ff) "Secretary" means the secretary for children and families or the secretary's designee.

~~(ff)~~(gg) "Secure facility" means a facility, other than a staff secure facility or juvenile detention facility, that is operated or structured so as to ensure that all entrances and exits from the facility are under the exclusive control of the staff of the facility, whether or not the person being detained has freedom of movement within the perimeters of the facility, or that relies on locked rooms and buildings, fences or physical restraint in order to control behavior of its residents. No secure facility shall be in a city or county jail.

~~(gg)~~(hh) "Sexual abuse" means any contact or interaction with a child in which the child is being used for the sexual stimulation of the perpetrator, the child or another person. Sexual abuse shall include, but is not limited to, allowing, permitting or encouraging a child to:

- (1) Be photographed, filmed or depicted in pornographic material; or
- (2) be subjected to aggravated human trafficking, as defined in K.S.A. 2022 Supp. 21-5426(b), and amendments thereto, if committed in whole or in part for the purpose of the sexual gratification of the offender or another, or be subjected to an act that would constitute conduct proscribed by article 55 of chapter 21 of the Kansas Statutes Annotated or K.S.A. 2022 Supp. 21-6419 or 21-6422, and amendments thereto.

~~(hh)~~(ii) "Shelter facility" means any public or private facility or home, other than a juvenile detention facility or staff secure facility, that may be used in accordance with this code for the purpose of providing either temporary placement for children in need of care prior to the issuance of a dispositional order or longer term care under a dispositional order.

~~(ii)~~(jj) "Staff secure facility" means a facility described in K.S.A. 65-535, and amendments thereto: (1) That does not include construction features designed to physically restrict the movements and activities of juvenile residents who are placed therein; (2) that may establish reasonable rules restricting entrance to and egress from the facility; and (3) in which the movements and activities of individual juvenile residents may, for treatment purposes, be restricted or subject to control through the use

of intensive staff supervision. No staff secure facility shall be in a city or county jail.

~~(jj)~~(kk) "Transition plan" means, when used in relation to a youth in the custody of the secretary, an individualized strategy for the provision of medical, mental health, education, employment and housing supports as needed for the adult and, if applicable, for any minor child of the adult, to live independently and specifically provides for the supports and any services for which an adult with a disability is eligible including, but not limited to, funding for home and community based services waivers.

~~(kk)~~(ll) "Youth residential facility" means any home, foster home or structure that provides 24-hour-a-day care for children and that is licensed pursuant to article 5 of chapter 65 of the Kansas Statutes Annotated, and amendments thereto.

Sec. 3. K.S.A. 38-2203 is hereby amended to read as follows: 38-2203. (a) Proceedings concerning any child who may be a child in need of care shall be governed by this code, except in those instances when the court knows or has reason to know that an Indian child is involved in the proceeding, in which case, the Indian child welfare act of 1978, 25 U.S.C. § 1901 et seq., applies. The Indian child welfare act may apply to: The filing to initiate a child in need of care proceeding, K.S.A. 38-2234, and amendments thereto; ex parte custody orders, K.S.A. 38-2242, and amendments thereto; temporary custody hearing, K.S.A. 38-2243, and amendments thereto; adjudication, K.S.A. 38-2247, and amendments thereto; burden of proof, K.S.A. 38-2250, and amendments thereto; disposition, K.S.A. 38-2255, and amendments thereto; permanency hearings, K.S.A. 38-2264, and amendments thereto; termination of parental rights, K.S.A. 38-2267, 38-2268 and 38-2269, and amendments thereto; establishment of permanent custodianship, K.S.A. 38-2268 and 38-2272, and amendments thereto; the Representative Gail Finney memorial foster care bill of rights, section 1, and amendments thereto; the placement of a child in any foster, pre-adoptive and adoptive home and the placement of a child in a guardianship arrangement under article 30 of chapter 59 of the Kansas Statutes Annotated, and amendments thereto.

(b) Subject to the uniform child custody jurisdiction and enforcement act, K.S.A. 2022 Supp. 23-37,101 through 23-37,405, and amendments thereto, the district court shall have original jurisdiction of proceedings pursuant to this code.

(c) The court acquires jurisdiction over a child by the filing of a petition pursuant to this code or upon issuance of an ex parte order pursuant to K.S.A. 38-2242, and amendments thereto. When the court acquires jurisdiction over a child in need of care, jurisdiction may continue until the child has: (1) Become 18 years of age, or until June 1 of the school year during which the child became 18 years of age if the child is still attending high school unless there is no court approved transition plan, in which event jurisdiction may continue until a transition plan is approved by the court or until the child reaches the age of 21; (2) been adopted; or (3) been discharged by the court. Any child 18 years of age or over may request, in writing to the court, that the jurisdiction of the court cease. The court shall give notice of the request to all parties and interested parties and 30 days after receipt of the request, jurisdiction will cease.

(d) When it is no longer appropriate for the court to exercise jurisdiction over a child, the court, upon its own motion or the motion of a party or interested party at a hearing or upon agreement of all parties or interested parties, shall enter an order discharging the child. Except upon request of the child pursuant to subsection (c), the court shall not enter an order discharging a child until June 1 of the school year during which the child becomes 18 years of age if the child is in an out-of-home placement, is

still attending high school and has not completed the child's high school education.

(e) When a petition is filed under this code, a person who is alleged to be under 18 years of age shall be presumed to be under that age for the purposes of this code, unless the contrary is proved.

(f) A court's order issued in a proceeding pursuant to this code, shall take precedence over such orders in a civil custody case, a proceeding under article 31 of chapter 60 of the Kansas Statutes Annotated, and amendments thereto, protection from abuse act, or a comparable case in another jurisdiction, except as provided by K.S.A. 2022 Supp. 23-37,101 through 23-37,405, and amendments thereto, uniform child custody jurisdiction and enforcement act.

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

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

(c) Within 14 days after receipt of the notice, any person enumerated in subsection (a)(2) through (8) receiving notice as provided above may request, either orally or in writing, that the court conduct a hearing to determine whether or not the change in placement is in the best interests of the child concerned. When the request has been received, the court shall schedule a hearing and immediately notify the secretary of the request and the time and date the matter will be heard. The court shall give notice of the hearing to persons enumerated in subsection (a)(2) through (9). If the court does not receive a request for hearing within the specified time, the change in placement may occur prior to the expiration of the 30 days. The secretary shall not change the placement of the child, except for the purpose of adoption, unless the change is approved by the court.

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

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

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

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

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

which threatens the safety to the child.

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

Sec. 5. K.S.A. 38-2261 is hereby amended to read as follows: 38-2261. The secretary shall notify the foster parent or ~~parents~~ kinship caregivers that the foster parent or ~~parents~~ kinship caregivers have a right to submit a report. Copies of the report shall be available to the parties and interested parties. The report made by foster parents shall be on a form created and provided by the Kansas department for children and families.

Sec. 6. K.S.A. 38-2202, 38-2203, 38-2258 and 38-2261 are hereby repealed.";

And by renumbering sections accordingly;

On page 1, in the title, in line 4, after "parents" by inserting "; applying the federal Indian child welfare act to the Representative Gail Finney memorial foster care bill of rights; defining kinship caregivers; granting rights to kinship caregivers under the revised Kansas code for care of children; amending K.S.A. 38-2202, 38-2203, 38-2258 and 38-2261 and repealing the existing sections"; and the bill be passed as amended.

Committee on **Commerce, Labor and Economic Development** recommends **HB 2401** be amended on page 21, in line 36, after the period by inserting "Except as otherwise provided by the employment security law or this subsection,"; in line 37, after the period by inserting "An extension or extensions of up to a total of four additional weeks of temporary employment at the request of an employer for an individual may be granted by the secretary as provided by K.S.A. 44-775(a)(2), and amendments thereto. The maximum amount of temporary unemployment for an individual in a benefit year, including any extensions granted by the secretary, shall be 12 weeks.

Sec. 2. K.S.A. 44-705 is hereby amended to read as follows: 44-705. Except as provided by K.S.A. 44-757, and amendments thereto, an unemployed individual shall be eligible to receive benefits with respect to any week only if the secretary, or a person or persons designated by the secretary, finds that:

(a) The claimant has registered for work at and thereafter continued to report at an employment office in accordance with rules and regulations adopted by the secretary, except that, subject to the provisions of K.S.A. 44-704(a), and amendments thereto, the secretary may adopt rules and regulations that waive or alter either or both of the requirements of this subsection.

(b) The claimant has made a claim for benefits with respect to such week in accordance with rules and regulations adopted by the secretary.

(c) (1) The claimant is able to perform the duties of such claimant's customary occupation or the duties of other occupations that the claimant is reasonably fitted by training or experience, and is available for work, as demonstrated by the claimant's pursuit of the full course of action most reasonably calculated to result in the claimant's reemployment except that, notwithstanding any other provisions of this section, an unemployed claimant otherwise eligible for benefits shall not become ineligible for benefits:

(A) Because of the claimant's enrollment in and satisfactory pursuit of approved training, including training approved under section 236(a)(1) of the trade act of 1974;

(B) solely because such individual is seeking only part-time employment if the individual is available for a number of hours per week that are comparable to the individual's part-time work experience in the base period; or

(C) because a claimant is not actively seeking work:

(i) During a state of disaster emergency proclaimed by the governor pursuant to K.S.A. 48-924 and 48-925, and amendments thereto;

(ii) in response to the spread of the public health emergency of COVID-19; and

(iii) the state's temporary waiver of the work search requirement under the employment security law for such claimant is in compliance with the families first coronavirus response act, public law 116-127.

(2) The secretary shall develop and implement procedures to address claimants who refuse to return to suitable work or refuse to accept an offer of suitable work without good cause. Such procedures shall include the receipt and processing of job refusal reports from employers, the evaluation of such reports in consideration of the claimant's work history and skills and suitability of the offered employment and guidelines for a determination of whether the claimant shall remain eligible for unemployment benefits or has failed to meet the work search requirements of this subsection or the requirements of K.S.A. 44-706(c), and amendments thereto. In determining whether the employment offered is suitable, the secretary's considerations shall include whether the employment offers wages comparable to the claimant's recent employment and work duties that correspond to the claimant's education level and previous work experience. The secretary shall also consider whether the employment offers wages of at least the amount of the claimant's maximum weekly benefits.

(3) To facilitate the requirements of paragraph (2), the secretary shall provide readily accessible means for employers to notify the department when a claimant refuses to return to work or refuses an offer of employment, including by telephone, email or an online web portal. The secretary shall create or cause to be created in the new unemployment insurance information technology system as provided by K.S.A. 44-772, and amendments thereto, an audit process for employers to submit reports regarding activities related to the work search requirement or to the my reemployment plan, established in K.S.A. 44-775, and amendments thereto, and applicants that accept interview appointments but do not participate or notify the interviewing employer of their inability to participate in the scheduled interview. The secretary shall not be required to implement such audit process prior to the completion of such new unemployment insurance information technology system. Nothing in this subsection shall be construed as to require an employer to report such job refusals to the department.

(4) At the time of receipt of notice from an employer pursuant to paragraph (3), the secretary shall, within 10 business days of receipt of such notice from the employer, provide a notice to the claimant who has refused to return to work or to accept an offer of suitable work without good cause. The method of providing the notice to the claimant shall be consistent with other correspondence from the department to the claimant and may include mail, telephone, email or through an online web portal. The notice shall, at minimum, include the following information:

(A) A summary of state employment security law regarding a claimant's duties to

return to work or accept suitable work;

(B) a statement that the claimant has been or may be disqualified and the claimant's right to collect benefits has been or may be terminated for refusal to return to work or accept suitable work without good cause, as provided by this subsection and K.S.A. 44-706(c), and amendments thereto;

(C) an explanation of what constitutes suitable work under the employment security law; and

(D) instructions for contesting a denial of a claim if the denial is based upon a report by an employer that the claimant has refused to return to work or has refused to accept an offer of suitable work.

(5) The secretary shall include notices to all active employers regarding work search noncompliance reporting options provided in paragraph (3) in the department of labor's annual summary of benefit charges pursuant to K.S.A. 44-710b(d), and amendments thereto, and in the rate notices to employers pursuant to K.S.A. 44-710b(a), and amendments thereto. The secretary shall not be required to implement such notice requirements prior to the completion of the new unemployment insurance information technology system, as provided by K.S.A. 44-772, and amendments thereto.

~~(5)(6)~~ (6) For the purposes of this subsection, an inmate of a custodial or correctional institution shall be deemed to be unavailable for work and not eligible to receive unemployment compensation while incarcerated.

(d) (1) Except as provided further, the claimant has been unemployed for a waiting period of one week or the claimant is unemployed and has satisfied the requirement for a waiting period of one week under the shared work unemployment compensation program as provided in K.S.A. 44-757(k)(4), and amendments thereto, and that period of one week, in either case, occurs within the benefit year that includes the week for which the claimant is claiming benefits. No week shall be counted as a week of unemployment for the purposes of this subsection:

(A) If benefits have been paid for such week;

(B) if the individual fails to meet with the other eligibility requirements of this section; or

(C) if an individual is seeking unemployment benefits under the unemployment compensation law of any other state or of the United States, except that if the appropriate agency of such state or of the United States finally determines that the claimant is not entitled to unemployment benefits under such other law, this subparagraph shall not apply.

(2) (A) The waiting week requirement of paragraph (1) shall not apply to:

(i) New claims by claimants who become unemployed as a result of an employer terminating business operations within this state, declaring bankruptcy or initiating a work force reduction pursuant to public law 100-379, the federal worker adjustment and retraining notification act, 29 U.S.C. §§ 2101 through 2109, as amended; or

(ii) new claims filed on or after April 5, 2020, through December 26, 2020, in accordance with the families first coronavirus response act, public law 116-127 and the federal CARES act, public law 116-136.

(B) The secretary shall adopt rules and regulations to administer the provisions of this paragraph.

(3) If the waiting week requirement of paragraph (1) applies, a claimant shall

become eligible to receive compensation for the waiting period of one week, pursuant to paragraph (1), upon completion of three weeks of unemployment consecutive to such waiting period. This paragraph shall not apply to initial claims effective on and after April 1, 2021.

(e) For benefit years established on and after the effective date of this act, the claimant has been paid total wages for insured work in the claimant's base period of not less than 30 times the claimant's weekly benefit amount and has been paid wages in more than one quarter of the claimant's base period, except that the wage credits of an individual earned during the period commencing with the end of a prior base period and ending on the date that such individual filed a valid initial claim shall not be available for benefit purposes in a subsequent benefit year unless, in addition thereto, such individual has returned to work and subsequently earned wages for insured work in an amount equal to at least eight times the claimant's current weekly benefit amount.

(f) The claimant participates in reemployment services, such as job search assistance services, if the individual has been determined to be likely to exhaust regular benefits and needs reemployment services pursuant to a profiling system established by the secretary, unless the secretary determines that: (1) The individual has completed such services; or (2) there is justifiable cause for the claimant's failure to participate in such services.

(g) The claimant is returning to work after a qualifying injury and has been paid total wages for insured work in the claimant's alternative base period of not less than 30 times the claimant's weekly benefit amount and has been paid wages in more than one quarter of the claimant's alternative base period if:

(1) The claimant has filed for benefits within four weeks of being released to return to work by a licensed and practicing health care provider;

(2) the claimant files for benefits within 24 months of the date the qualifying injury occurred; and

(3) the claimant attempted to return to work with the employer where the qualifying injury occurred, but the individual's regular work or comparable and suitable work was not available.";

On page 46, following line 34, by inserting:

"Sec. 6. K.S.A. 44-772 is hereby amended to read as follows: 44-772. (a) It is the intent of the legislature that, in order to accomplish the mission of collecting state employment security taxes, processing unemployment insurance benefit claims and paying benefits, the department of labor's information technology system shall be continually developed, customized, enhanced and upgraded. The purpose of this section is to ensure the state's unemployment insurance program is utilizing current technology and features to protect the sensitive data required in the unemployment insurance benefit and tax systems relating to program integrity, system efficiency and customer service experience.

(b) The legislature finds that, as a result of the vulnerabilities exposed in the legacy unemployment insurance system by the COVID-19 pandemic unemployment insurance crisis, a new system shall be fully designed, implemented and administered by the department of labor not later than December 31, 2022. The legislative coordinating council, upon consultation with the unemployment compensation modernization and improvement council established by K.S.A. 44-771, and amendments thereto, may extend the deadline to a date certain and may further extend the deadline to another date

certain at any time as often as the legislative coordinating council deems appropriate. The secretary of labor shall provide written notice to the legislative coordinating council and the unemployment compensation modernization and improvement council at least 30 days prior to the expiration of a deadline advising whether the secretary seeks an extension of the deadline and, if so, the basis therefor. The failure of the secretary to provide such notice shall not affect the authority of the legislative coordinating council to act as provided by this subsection. For purposes of this subsection, "consultation" means an appearance before, or written statement provided to, the legislative coordinating council by the chairman of the unemployment compensation modernization and improvement council or the chairman's designee. Any member of the unemployment compensation modernization and improvement council may also provide a written statement. A report to the legislative coordinating council by the unemployment compensation modernization and improvement council may be provided but shall not be required. If any deadline expires before the legislative coordinating council extends that deadline, the council may subsequently meet as soon as reasonably possible and may retroactively extend any deadline as otherwise provided by this subsection.

(c) The information technology system, technology and platform shall include, but not be limited to, any components as specified and defined by the unemployment compensation modernization and improvement council established by K.S.A. 44-771, and amendments thereto, in consultation with the secretary.

(d) The new system shall include, but not be limited to, any features and benefits as specified and defined by the unemployment compensation modernization and improvement council established by K.S.A. 44-771, and amendments thereto, in consultation with the secretary.

(e) The secretary shall implement and utilize all program integrity elements, as specified and defined by the unemployment compensation modernization and improvement council established by K.S.A. 44-771, and amendments thereto, in consultation with the secretary, including, but not limited to:

(1) Social security administration cross-matching for the purpose of validating social security numbers supplied by a claimant;

(2) checking of new hire records against the national directorate of new hires to verify eligibility;

(3) verification of immigration status or citizenship and confirmation of benefit applicant information through the systematic alien verification for entitlement program;

(4) comparison of applicant information to local, state and federal prison databases through incarceration cross-matches;

(5) detection of duplicate claims by applicants filed in other states or other unemployment insurance programs through utilization of the interstate connection network, interstate benefits cross-match, the state identification inquiry state claims and overpayment file and the interstate benefits 8606 application for overpayment recoveries for Kansas claims filed from a state other than Kansas;

(6) identification of internet protocol addresses linked to multiple claims or to claims filed outside of the United States; and

(7) use of data mining and data analytics to detect and prevent fraud when a claim is filed, and on an ongoing basis throughout the lifecycle of a claim, by using current and future functionalities to include suspicious actor repository, suspicious email

domains, foreign internet protocol addresses, multi-state cross-match, identity verification, fraud alert systems and other assets provided by the unemployment insurance integrity center.

(f) If the unemployment compensation modernization and improvement council becomes inactive or is dissolved and the new information technology system modernization project has been completed, the secretary shall implement and utilize all new program integrity elements and guidance issued by the United States department of labor and the national association of state workforce agencies, including the integrity data hub, within 60 days of the issuance of any such guidance.

(g) The secretary, on a scheduled basis, shall cross check new and active unemployment insurance claims against the cross-check programs described in subsection (e). If the secretary receives information concerning an individual approved for benefits that indicates a change in circumstances that may affect eligibility, the secretary shall review the individual's case and act in accordance with the law.

(h) The department of labor shall have the authority to execute a memorandum of understanding with any department, agency or agency division for information required to be shared between agencies pursuant to the provisions of this section.

(i) The secretary of labor shall adopt rules and regulations necessary for the purposes of carrying out this section. Such rules and regulations shall be adopted within 12 months of the effective date of this act.

(j) The secretary of labor shall provide an annual status update and progress report regarding the requirements of this section to the unemployment compensation modernization and improvement council and the legislative coordinating council.

(k) This section shall be a part of and supplemental to the employment security law.

Sec. 7. K.S.A. 2022 Supp. 44-775 is hereby amended to read as follows: 44-775.

(a) (1) The secretary of labor and the secretary of commerce shall jointly establish and implement the my reemployment plan as provided in this section. For purposes of this section, "my reemployment plan" means a program jointly established and implemented by the Kansas department of labor and the Kansas department of commerce that provides enhanced reemployment services, including workforce services provided by the department of commerce, to Kansans receiving unemployment insurance benefits. The program shall be required for all claimants except claimants in the shared work program, trade adjustment assistance and trade readjustment assistance program, claimants on temporary layoff with a return-to-work date but such claimants shall only be excepted during any first 8 consecutive weeks of benefits, claimants that are currently employed, claimants that are current reemployment services and eligibility assessment participants, claimants that are active members in good standing of a placement union-~~or~~, claimants that are engaged in a training program. ~~The program shall be implemented on or before June 1, 2021 or claimants that are on temporary unemployment as defined in K.S.A. 44-703(ii), and amendments thereto.~~

(2) Rated employers seeking an extension of temporary unemployment with respect to an individual shall submit a written request to the secretary. The total maximum of temporary unemployment for an individual in a benefit year, including any extensions as provided by this paragraph, shall be 12 weeks. As a condition of approval by the secretary, a rated employer shall agree to furnish the secretary with reports relating to the temporary unemployment extension request as the secretary may require. The secretary may approve one or more extensions of up to a total of four weeks of

additional temporary unemployment for an individual, if the secretary determines the requesting employer is a contributing employer eligible for a rate computation under K.S.A. 44-710a(a)(2), and amendments thereto, and is a:

(A) Rated employer that has filed all reports required to be filed under the employment security law for all past and current periods and has paid all contributions; and

(B) (i) positive account employer as defined by K.S.A. 44-710a(d), and amendments thereto; or

(ii) negative account employer as defined by K.S.A. 44-710a(d), and amendments thereto, and the negative account employer's most recent calculated reserve ratio has improved from the reserve ratio of such employer for the previous reporting year.

~~(2)~~(3) The secretary of labor shall provide the secretary of commerce with the names and contact information of claimants that have claimed a third week of benefits in the current benefit year. The secretary of labor shall request the claimant to upload or create a complete resume in the Kansasworks workforce system, and complete a job search plan that includes a skills assessment component. The secretary of commerce shall offer and provide, when requested, assistance to the claimants in developing the documents or plan through collaboration by the secretary with the Kansasworks workforce system. The secretary of commerce may require claimants to participate in reemployment services. The claimant shall have 14 calendar days to respond to the secretary of commerce. The secretary of commerce shall report any failure to respond by the claimant to the secretary of labor.

~~(3)~~(4) The secretary of labor shall share labor market information and current available job positions with the secretary of commerce. The secretary of labor may collaborate with Kansasworks or other state or federal agencies with job availability information in obtaining or sharing such information.

~~(4)~~(5) The secretary of commerce shall match open job positions with claimants based on skills, work history and job location that is a reasonable commute from the claimant's residence and communicate the match information to the claimant and to the employer. The secretary of labor and the secretary of commerce shall consider whether the claimant or a Kansas employer would benefit from the claimant's participation in a work skills training or retraining program as provided by subsection (b) and, if so, provide such information to the employer, if applicable, and the claimant. Claimants who fail to respond within 14 calendar days after contact by Kansasworks or the department of commerce shall be reported by the secretary of commerce to the secretary of labor.

~~(5)~~(6) The secretary of commerce and the secretary of labor shall monitor the result of job matches and share information regarding any claimant who did not attend an interview or did not accept a position that was a reasonable match for the claimant's work history and skills and was within a reasonable commute from the claimant's residence. The secretary of commerce shall contact the claimant and report the contact to the secretary of labor. The secretary of labor shall consider whether the claimant has failed to meet work search requirements and if the claimant should continue to receive benefits.

(b) The secretary of commerce shall refer claimants to a work skills training or retraining program as appropriate. The secretary of commerce shall seek to obtain or utilize any available federal funds for the program, and to the extent feasible, may make

current work skills training and retraining programs available to claimants. The secretary of labor may allow claimants to participate in such a program offered by the secretary of commerce or by another state or federal agency in lieu of requiring the claimant to meet job search requirements and the requirements of the my reemployment plan until the number of allowed benefit weeks has expired. A claimant shall participate in such a program for not less than 25 hours per week. The secretary of commerce shall monitor those my reemployment plan claimants participating in training managed by the workforce centers to ensure compliance.

(c) Claimants who participate in the my reemployment plan or the work skills training or retraining program shall meet attendance or progress requirements established by the secretary of commerce to continue eligibility for unemployment insurance benefits. Non-compliant claimants shall be reported by the secretary of commerce to the secretary of labor. The secretary of labor shall disqualify such claimants from further benefits within five business days of receiving the report, unless or until the claimant demonstrates compliance to the secretary of commerce, and shall communicate the disqualification and the reason for the disqualification to the claimant. The secretary of commerce shall report to the secretary of labor when the claimant has reestablished compliance. The secretary of labor may continue benefits or reinstate a claimant's eligibility for benefits upon a showing of good cause by the claimant for the failure to meet attendance or progress requirements or my reemployment plan participation requirements.

(d) The secretary of labor and the secretary of commerce shall provide an annual status update and progress report for the my reemployment plan to the standing committee on commerce, labor and economic development of the house of representatives and the standing committee on commerce of the senate during the first month of the 2022 regular legislative session and the first month of each regular legislative session thereafter.

(e) This section shall be a part of and supplemental to the employment security law.";

Also on page 46, in line 35, after the first "K.S.A." by inserting "44-705,"; also in line 35, by striking the first "and" and inserting a comma; also in line 35, after "44-717" by inserting "and 44-772"; also in line 35, by striking the third "and" and inserting a comma; in line 36, after "44-710a" by inserting "and 44-775";

And by renumbering sections accordingly;

On page 1, in the title, in line 10, after the semicolon by inserting "requiring the secretary to create an audit process within the new unemployment insurance information technology system to permit employers to submit reports regarding work search, the my reemployment plan and claimants who do not provide notification or appear for scheduled interviews; providing for notices by the secretary to active employers regarding work search noncompliance reporting options; authorizing the legislative coordinating council to extend the new unemployment insurance information technology system implementation date as often as deemed appropriate by the council, requiring the secretary to notify the council of the need for an extension and permitting retroactive extension if necessary; authorizing the secretary to extend temporary unemployment up to four weeks upon request by employers,"; also in line 10, after "K.S.A." by inserting "44-705,"; also in line 10, by striking "and" and inserting a comma; in line 11, after "717" by inserting "and 44-772"; also in line 11, by striking the

second "and" and inserting a comma; also in line 11, after "44-710a" by inserting "and 44-775"; and the bill be passed as amended.

Committee on **Corrections and Juvenile Justice** recommends **SB 217**, As Amended by Senate Committee, be amended on page 20, in line 25, by striking "statute book" and inserting "Kansas register"; and the bill be passed as amended.

Committee on **Corrections and Juvenile Justice** recommends **SB 228**, As Amended by Senate Committee of the Whole, be amended on page 1, in line 18, by striking all after "of"; in line 19, by striking all before "a";

On page 2, following line 29, by inserting:

"(f) For the purposes of this section, "county jail" means a jail operated by a county or a consolidated law enforcement agency.";

Also on page 2, in line 36, by striking "(a)"; in line 38, by striking "(1)" and inserting "(a)"; in line 40, by striking "(2)" and inserting "(b)"; in line 41, by striking "each sex, female and male" and inserting "the sexes"; in line 42, by striking "(3)" and inserting "(c)";

On page 3, by striking all in lines 1 through 3;

On page 6, in line 38, by striking all after "(3)"; by striking all in lines 39 through 43 and inserting "Except as provided in K.S.A. 22-4613, and amendments thereto, the prisoner shall remain in the custody of the arresting agency during the examination required under paragraph (2).

(4) The cost of the examination and resulting treatment under paragraph (2) is the financial responsibility of the prisoner receiving the examination or treatment in accordance with K.S.A. 19-4444 and 22-4612, and amendments thereto.";

On page 8, in line 33, after "(1)" by inserting "'Arresting agency" does not include a surety, bail agent or bail enforcement agent who arrests a person who was released on an appearance bond pursuant to K.S.A. 22-2809, and amendments thereto.

(2)";

And by redesignating subsections, paragraphs, subparagraphs and clauses accordingly;

On page 1, in the title, in line 3, by striking "confined"; and the bill be passed as amended.

Committee on **Federal and State Affairs** recommends **HB 2438** be amended on page 2, in line 2, by striking "and"; in line 3, by striking "any" and inserting "licensed"; also in line 3, by striking all after "assistant"; by striking all in lines 4 and 5; in line 6, by striking all before the first comma; and the bill be passed as amended.

Committee on **Federal and State Affairs** recommends **SB 116** be amended by substituting with a new bill to be designated as "House Substitute for SENATE BILL NO. 116," as follows:

"House Substitute for SENATE BILL NO. 116

By Committee on Federal and State Affairs

"AN ACT concerning alcoholic beverages; relating to spirits distributors, wine distributors and cereal malt beverage distributors; regulating samples; relating to the special order shipping of wine; requiring monthly remittance of gallonage taxes; amending the common consumption area law to permit rather than require that roads be blocked and to allow designation of such areas by signage; relating to the Kansas cereal malt beverage act; allowing businesses to sell cereal malt beverage by the drink on

Sundays without requiring that 30% of the gross receipts of such businesses be derived from the sale of food; amending K.S.A. 41-306, 41-306a, 41-307, 41-350 and 41-2659 and K.S.A. 2022 Supp. 41-2704 and repealing the existing sections.";

And the substitute bill be passed.

(**H Sub for SB 116** was thereupon introduced and read by title.)

Committee on **Health and Human Services** recommends **SB 180**, as recommended by the Committee on Health and Human Services to be passed as reported in the Journal of the House on March 8, 2023, be amended on page 1, by striking all in lines 4 through 26;

On page 2, in line 7, by striking "and"; in line 9, after "unequal" by inserting "; and (7) an individual born with a medically verifiable diagnosis of "disorder/differences in sex development" shall be provided legal protections and accommodations afforded under the Americans with disabilities act and applicable Kansas statutes";

And the bill be passed as amended.

Committee on **Taxation** recommends **SB 91**, As Amended by Senate Committee of the Whole, be amended on page 23, following line 19, by inserting:

"New Sec. 9. On or before January 31, 2027, and on or before January 31, 2031, the secretary of commerce shall submit an economic impact report to the house of representatives standing committee on commerce, labor and economic development, the house of representatives standing committee on taxation, the senate standing committee on commerce and the senate standing committee on assessment and taxation. The economic impact report shall include an economic impact assessment and evaluation for the approved and completed projects of the preceding years. The report shall include economic impacts attributable to each approved project, the impact of project expenditures on the state and local economy, including local taxes and state taxes related to sales, salaries and wages, full-time and part-time employment and other categories of expenditures as appropriate. The report shall utilize the best available methodology to calculate the multiplier effect of the actual impact of qualified expenditures in the location of a certified production. The secretary of revenue shall provide the secretary of commerce with information as necessary for the report in accordance with the terms of the agreements required by section 3, and amendments thereto.";

And by renumbering sections accordingly;

On page 1, in the title, in line 12, after the semicolon by inserting "requiring the secretary of commerce to issue reports on the economic impact of the act"; and the bill be passed as amended.

## COMMITTEE ASSIGNMENT CHANGES

Speaker Hawkins announced the appointment of Rep. Hoheisel to replace Rep. Poetter Parshall on Committee on Education for March 20, 2023.

Also, the appointment of Rep. Titus to replace Rep. Donohoe on Committee on Education for March 20, 2023.

Also, the appointment of Rep. Mason to replace Rep. Poetter Parshall on Committee on Taxation for March 21 – April 6, 2023.

Also, the appointment of Rep. Patton to replace Rep. Concannon on Committee on Appropriations for March 21, 2023.

Also, the appointment of Rep. Blew to replace Rep. Blex on Committee on Health and Human Services for March 20, 2023.

Also, the appointment of Rep. Patton to replace Rep. Butler on Committee on Corrections and Juvenile Justice for March 21, 2023.

Also, the appointment of Rep. Butler to replace Rep. Patton on Committee on Commerce, Labor and Economic Development for March 21, 2023.

Also, the appointment of Rep. Vic Miller to replace Rep. Neighbor on Committee on Child Welfare and Foster Care for March 20, 2023.

Also, the appointment of Rep. Winn to replace Rep. Louis Ruiz on Committee on Education for March 20, 2023.

Also, the appointment of Rep. Weigel to replace Rep. Haskins on Committee on Education for March 20, 2023.

Also, the appointment of Rep. Dennis Miller to replace Rep. Stogsdill on Committee on Education for March 20, 2023.

#### **REPORT ON ENGROSSED BILLS**

**HB 2105, HB 2247** reported correctly engrossed March 16, 2023.

**HB 2388** reported correctly engrossed March 17, 2023.

On motion of Rep. Croft, the House adjourned until 11:00 a.m., Tuesday, March 21, 2023.

JENNY HAUGH, JULIA WERNER, *Journal Clerks.*

SUSAN W. KANNARR, *Chief Clerk.*

