

Session of 2023

HOUSE BILL No. 2194

By Committee on Child Welfare and Foster Care

1-26

1 AN ACT concerning children and minors; relating to the revised Kansas
2 code for care of children; enacting the Representative Gail Finney
3 memorial foster care bill of rights; establishing certain rights for
4 children in need of care and foster parents.

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

7 Section 1. (a) This section shall be known and may be cited as the
8 Representative Gail Finney memorial foster care bill of rights.

9 (b) Consistent with the policy of the state expressed in K.S.A. 38-
10 2201 et seq., and amendments thereto, in order to ensure proper care and
11 protection of a child in need of care in the child welfare system, unless
12 otherwise ordered by the court, such child shall have the right to:

13 (1) Live in a safe, comfortable placement, in accordance with K.S.A.
14 38-2255, and amendments thereto:

15 (A) Where such child lives in the least restrictive environment;

16 (B) where such child shall be treated with respect, have a place to
17 store belongings and receive healthy food, adequate clothing and
18 appropriate personal hygiene products;

19 (C) with siblings when possible; and

20 (D) upon proper investigation and consideration in accordance with
21 K.S.A. 38-2242, and amendments thereto, with a relative, kinship care
22 placement or someone from such child's community with similar religious
23 beliefs or ethnic heritage;

24 (2) have visits with family;

25 (3) have as few placements as possible;

26 (4) have and maintain belongings by:

27 (A) Making a list of belongings to have when placed out of home;

28 (B) providing such list of belongings to such child's case manager;

29 (C) bringing such belongings when placed out of home; and

30 (D) if going on a visit or to a new placement, having belongings
31 packed and transportable for the visit or move;

32 (5) have access to all appropriate school supplies, services, tutoring,
33 extra-curricular, cultural and personal enrichment activities;

34 (6) attend school daily in accordance with K.S.A. 38-2218, and
35 amendments thereto;

36 (7) receive a high school diploma if such child has earned the

applying the federal Indian child welfare act to the Representative Gail
Finney memorial foster care bill of rights; amending K.S.A. 38-2203
and repealing the existing section

1 (12) receive information from the Kansas department for children and
2 families that is relevant to the care of a child when the child is placed with
3 such foster parents;
4 (13) provide input and participate in the case planning process for the
5 child and participate in and be informed about the planning of visitation
6 between the child and the child's biological family, recognizing that
7 visitation with the biological family is important, in accordance with
8 K.S.A. 38-2255, and amendments thereto;
9 (14) communicate with the child's child welfare case management
10 provider and share and obtain relevant and appropriate information
11 regarding such child's placement;
12 (15) communicate with members of the child's professional team,
13 including, but not limited to, such child's child welfare management
14 provider, therapists, physicians and teachers as allowed by rules and
15 regulations and state and federal law, for the purpose of participating in
16 such child's case plan;
17 (16) be notified in advance of any court hearing or review where the
18 case plan or permanency of the child is an issue, including periodic
19 reviews held by the court, in accordance with the revised Kansas code for
20 care of children;
21 (17) be considered as a placement option, if a child who was formerly
22 placed with such parents is in the custody of the secretary again;
23 (18) continue contact and communication with a child subsequent to
24 the child's placement from such foster parents' home, subject to the
25 approval of the child and the child's biological parents, if such biological
26 parents' rights have not been terminated;
27 (19) direct questions to the department for children and families
28 regarding information, concerns, policy violations and a corrective action
29 plan relating to licensure as a family foster home;
30 (20) have the rights described in this section be given full
31 consideration when the Kansas department for children and families
32 develops and approves policies regarding placement and permanency;
33 (21) submit a report to the court pursuant to K.S.A. 38-2261, and
34 amendments thereto; and
35 (22) request a court hearing regarding a change of placement notice
36 pursuant to K.S.A. 38-2258, and amendments thereto, if a child has been
37 placed with the same foster parents for six months or longer.
38 (d) This section shall be a part of and supplemental to the revised
39 Kansas code for care of children.
40 Sec. 2. This act shall take effect and be in force from and after its
41 publication in the statute book.

K.S.A. 38-2203 is hereby repealed.
Sec. 3

38-2203. Jurisdiction; age of child, presumptions; precedence of certain orders. (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. 2022 Supp. [38-2234](#), and amendments thereto; ex parte custody orders, K.S.A. 2022 Supp. [38-2242](#), and amendments thereto; temporary custody hearing, K.S.A. 2022 Supp. [38-2243](#), and amendments thereto; adjudication, K.S.A. 2022 Supp. [38-2247](#), and amendments thereto; burden of proof, K.S.A. 2022 Supp. [38-2250](#), and amendments thereto; disposition, K.S.A. 2022 Supp. [38-2255](#), and amendments thereto; permanency hearings, K.S.A. 2022 Supp. [38-2264](#), and amendments thereto; termination of parental rights, K.S.A. 2022 Supp. [38-2267](#), [38-2268](#) and [38-2269](#), and amendments thereto; establishment of permanent custodianship, K.S.A. 2022 Supp. [38-2268](#) and [38-2272](#), 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.

the Representative Gail Finney memorial foster care bill of rights, section 1, 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. 2022 Supp. [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.

History: L. 2006, ch. 200, § 3; L. 2008, ch. 169, § 2; L. 2009, ch. 99, § 2; L. 2010, ch. 75, § 6; L. 2011, ch. 24, § 4; L. 2012, ch. 162, § 61; May 31.