

CONFERENCE COMMITTEE REPORT

MADAM PRESIDENT and MR. SPEAKER: Your committee on conference on House amendments to **SB 113** submits the following report:

The Senate accedes to all House amendments to the bill, and your committee on conference further agrees to amend the bill, as printed with House Committee amendments, as follows:

On page 1, by striking all in lines 7 through 36;

By striking all on pages 2 through 4;

On page 5, by striking all in line 1; following line 1, by inserting:

"New Section 1. Sections 1 through 6, and amendments thereto, shall be known and may be cited as the safe families act.

New Sec. 2. As used in the safe families act:

(a) "Attorney in fact" shall have the same meaning as defined in K.S.A. 58-651, and amendments thereto.

(b) "Serving parent" means a parent who is a member of the reserves of the army, navy, air force, marine corps or coast guard of the United States or the commissioned corps of the national oceanic and atmospheric administration or the public health service of the United States department of health and human services detailed by proper authority for duty with the army or navy of the United States, or who is required to enter or serve in the active military service of the United States under a call or order of the president of the United States or to serve on state active duty.

New Sec. 3. (a) A parent or legal custodian of a child may by a properly executed

power of attorney, as provided in section 4, and amendments thereto, delegate to another person known as the attorney in fact, for a period not to exceed one year, except as provided in subsection (f), any of the powers regarding the care and custody of the child, except the power to consent to marriage or adoption of the child, the performance or inducement of an abortion on or for the child, or the termination of parental rights to the child. A delegation of powers under this section shall not deprive the parent or legal custodian of any parental or legal authority regarding the care and custody of the child.

(b) The parent or legal custodian of the child shall have the authority to revoke or withdraw the power of attorney authorized by subsection (a) at any time. Except as provided in subsection (f), if the delegation of authority lasts longer than one year, the parent or legal custodian of the child shall execute a new power of attorney for each additional year that the delegation exists. If a parent withdraws or revokes the power of attorney, the child shall be returned to the custody of the parents as soon as reasonably possible.

(c) Unless the authority is revoked or withdrawn by the parent, the attorney in fact shall exercise parental or legal authority on a continuous basis without compensation for the duration of the power of attorney authorized by subsection (a) and shall not be subject to any laws or rules or regulations dealing with the licensing or regulation of foster care homes.

(d) Except as otherwise provided by law, the execution of a power of attorney by a parent or legal custodian, as authorized in subsection (a), shall not constitute abandonment, abuse or neglect as defined in K.S.A. 38-2202, and amendments thereto, unless the parent or legal custodian fails to take custody of the child or execute a new power of attorney after the one-year time limit has elapsed.

(e) Under a delegation of powers as authorized by subsection (a), the child or children

subject to the power of attorney shall not be considered as placed in foster care and the parties shall not be subject to any of the requirements or licensing laws, rules or regulations for foster care or other regulations relating to community care for children.

(f) A serving parent may delegate the power designated in subsection (a) for a period longer than one year if on active duty service. The term of delegation, however, may not exceed the term of active duty service plus 30 days.

New Sec. 4. (a) The following statutory form of power of attorney to delegate parental or legal authority as authorized by section 3, and amendments thereto, is legally sufficient:

Statutory Form for Power of Attorney to Delegate Parental or Legal Custodian Powers

1. "I certify that I am the parent or legal custodian of:

\_\_\_\_\_  
(Full name of minor child) (Date of birth)

\_\_\_\_\_  
(Full name of minor child) (Date of birth)

\_\_\_\_\_  
(Full name of minor child) (Date of birth)"

2. "I designate \_\_\_\_\_

(Full name of Attorney in fact),

\_\_\_\_\_  
(Street address, city, state and zip code of Attorney in fact)

\_\_\_\_\_  
(Home phone of Attorney in fact) (Work phone of Attorney in fact)

as the attorney in fact of each minor child named above."

3. "I delegate to the attorney in fact all of my power and authority regarding the care, custody and property of each minor child named above, including, but not limited to, the right to enroll the child in school, inspect and obtain copies of education records and other records concerning the child, the right to attend school activities and other functions concerning the child, and the right to give or withhold any consent or waiver with respect to school activities, medical and dental treatment, and any other activity, function or treatment that may concern the child. This delegation shall not include the power or authority to consent to marriage or adoption of the child, the performance or inducement of an abortion on or for the child, or the termination of parental rights to the child." or

4. "I delegate to the attorney in fact the following specific powers and responsibilities (write in): \_\_\_\_\_

(In the event paragraph 4 is completed paragraph 3 does not apply).

This delegation shall not include the power or authority to consent to marriage or adoption of the child, the performance or inducement of an abortion on or for the child, or the termination of parental rights to the child."

5. "This power of attorney is effective for a period not to exceed one year, beginning \_\_\_\_\_, 20\_\_, and ending \_\_\_\_\_, 20\_\_. I reserve the right to revoke this authority at any time."

6. "I am a serving parent as defined in the safe families act. My active duty is estimated to be completed on \_\_\_\_\_. I acknowledge that in no event may this delegation of power last more than one year or the term on my active duty plus 30 days, whichever is longer.

By: \_\_\_\_\_

(Parent/Legal Custodian signature)"

7. "I hereby accept my designation as attorney in fact for

\_\_\_\_\_

(Minor child(ren)) as specified in this power of attorney.

\_\_\_\_\_

(Attorney in fact signature)

State of \_\_\_\_\_

County of \_\_\_\_\_

ACKNOWLEDGMENT

Before me, the undersigned, a Notary Public, in and for \_\_\_\_\_  
County and this State on this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, personally appeared  
\_\_\_\_\_ (Name of Parent/Legal Custodian) and \_\_\_\_\_  
(Name of Attorney in fact), to me known to be the identical persons who executed this  
instrument and acknowledged to me that each executed the same of such person's free and  
voluntary act and deed for the uses and purposes set forth in the instrument.

Witness my hand and official seal the day and year above written.

\_\_\_\_\_

(Signature of notarial officer)

(Seal, if any)

\_\_\_\_\_

(Title and Rank)

My commission expires: \_\_\_\_\_"

(b) The power of attorney is legally sufficient under the safe families act, if the wording  
of the form complies substantially with subsection (a), the form is properly completed and the

signatures of the parties are acknowledged.

New Sec. 5. During any child protective investigation by the Kansas department for children and families that does not result in an out-of-home placement resulting from abuse of a child, a child protective investigator shall provide information to the parent or custodians who are under financial distress, unemployed, homeless or experiencing other family crises about community service programs that provide respite care, voluntary guardianship, other support services for families in crisis, including churches and other organizations that work with safe families for children and the safe families act.

New Sec. 6. Any attorney in fact delegated authority under the safe families act by a parent or legal custodian is not subject to the requirements of any other child care facility licensing statutes, rules or regulations or foster care licensing laws or rules or regulations and will not constitute an out-of-home child placement under the child in need of care code, K.S.A. 38-2201 et seq., and amendments thereto.

New Sec. 7. The Kansas department for children and families is hereby authorized to work with families who are in financial distress, unemployed, homeless or experiencing other family crises by detailing community resources available to such families in the community, including, but not limited to, respite care, voluntary guardianship under the safe families act and information regarding churches and other organizations that work as host families for safe families for children in the state.

Sec. 8. K.S.A. 2014 Supp. 38-2231 is hereby amended to read as follows: 38-2231. (a) A law enforcement officer or court services officer shall take a child under 18 years of age into custody when:

- (1) The law enforcement officer or court services officer has a court order commanding

that the child be taken into custody as a child in need of care; or

(2) the law enforcement officer or court services officer has probable cause to believe that a court order commanding that the child be taken into custody as a child in need of care has been issued in this state or in another jurisdiction.

(b) A law enforcement officer shall take a child under 18 years of age into custody when the officer:

(1) Reasonably believes the child will be harmed if not immediately removed from the place or residence where the child has been found;

(2) has probable cause to believe that the child is a missing person and a verified missing person entry for the child can be found in the national crime information center missing person system; ~~or~~

(3) reasonably believes the child is a victim of human trafficking, aggravated human trafficking or commercial sexual exploitation of a child; or

(4) has probable cause to believe that a violation of article 57 of chapter 21 of the Kansas Statutes Annotated, and amendments thereto, is occurring in the child's residence and reasonably believes such violation threatens the safety of the child.

(c) (1) If a person provides shelter to a child whom the person knows is a runaway, such person shall promptly report the child's location either to a law enforcement agency or to the child's parent or other custodian.

(2) If a person reports a runaway's location to a law enforcement agency pursuant to this section and a law enforcement officer of the agency has reasonable grounds to believe that it is in the child's best interests, the child may be allowed to remain in the place where shelter is being provided, subject to subsection (b), in the absence of a court order to the contrary. If the

child is allowed to so remain, the law enforcement agency shall promptly notify the secretary of the child's location and circumstances.

(d) Except as provided in subsections (a) and (b), a law enforcement officer may temporarily detain and assume temporary custody of any child subject to compulsory school attendance, pursuant to K.S.A. 72-1111 and amendments thereto, during the hours school is actually in session and shall deliver the child pursuant to ~~subsection (g) of K.S.A. 2014 Supp. 38-2232(g)~~, and amendments thereto.

Sec. 9. K.S.A. 2014 Supp. 41-727 is hereby amended to read as follows: 41-727. (a) Except with regard to serving of alcoholic liquor or cereal malt beverage as permitted by K.S.A. 41-308a, 41-308b, 41-727a, 41-2610, 41-2652, 41-2704 and 41-2727, and amendments thereto, and subject to any rules and regulations adopted pursuant to such statutes, no person under 21 years of age shall possess, consume, obtain, purchase or attempt to obtain or purchase alcoholic liquor or cereal malt beverage except as authorized by law.

(b) Violation of this section by a person 18 or more years of age but less than 21 years of age is a class C misdemeanor for which the minimum fine is \$200.

(c) Any person less than 18 years of age who violates this section is a juvenile offender under the revised Kansas juvenile justice code. Upon adjudication thereof and as a condition of disposition, the court shall require the offender to pay a fine of not less than \$200 nor more than \$500.

(d) In addition to any other penalty provided for a violation of this section: (1) The court may order the offender to do either or both of the following:

(A) Perform 40 hours of public service; or

(B) attend and satisfactorily complete a suitable educational or training program dealing

with the effects of alcohol or other chemical substances when ingested by humans.

(2) Upon a first conviction of a violation of this section, the court shall order the division of vehicles to suspend the driving privilege of such offender for 30 days. Upon receipt of the court order, the division shall notify the violator and suspend the driving privileges of the violator for 30 days whether or not that person has a driver's license.

(3) Upon a second conviction of a violation of this section, the court shall order the division of vehicles to suspend the driving privilege of such offender for 90 days. Upon receipt of the court order, the division shall notify the violator and suspend the driving privileges of the violator for 90 days whether or not that person has a driver's license.

(4) Upon a third or subsequent conviction of a violation of this section, the court shall order the division of vehicles to suspend the driving privilege of such offender for one year. Upon receipt of the court order, the division shall notify the violator and suspend the driving privileges of the violator for one year whether or not that person has a driver's license.

(e) This section shall not apply to the possession and consumption of cereal malt beverage by a person under the legal age for consumption of cereal malt beverage when such possession and consumption is permitted and supervised, and such beverage is furnished, by the person's parent or legal guardian.

(f) (1) A person and, if applicable, one or two other persons acting in concert with such person are immune from criminal prosecution for a violation of this section, and any city ordinance or county resolution prohibiting the acts prohibited by this section, if such person:

(A) (i) Initiated contact with law enforcement or emergency medical services and requested medical assistance on such person's behalf because such person reasonably believed such person was in need of medical assistance; and

(ii) cooperated with emergency medical services personnel and law enforcement officers;

(B) (i) initiated contact with law enforcement or emergency medical services, or was one of one or two other persons who acted in concert with such person, and requested medical assistance for another person who reasonably appeared to be in need of medical assistance;

(ii) provided their full name, the name of one or two other persons acting in concert with such person, if applicable, and any other relevant information requested by law enforcement or emergency medical services;

(iii) remained at the scene with the person who reasonably appeared to be in need of medical assistance until emergency medical services personnel and law enforcement officers arrived; and

(iv) cooperated with emergency medical services personnel and law enforcement officers; or

(C) (i) was the person who reasonably appeared to be in need of medical assistance as described in subsection (f)(1)(B), but did not initiate contact with law enforcement or emergency medical services; and

(ii) cooperated with emergency medical services personnel and law enforcement officers.

(2) A person shall not be allowed to initiate or maintain an action against a law enforcement officer, or such officer's employer, based on the officer's compliance or failure to comply with this subsection.

~~(f)~~(g) Any city ordinance or county resolution prohibiting the acts prohibited by this section shall provide a minimum penalty which is not less than the minimum penalty prescribed

by this section.

~~(g)~~(h) A law enforcement officer may request a person under 21 years of age to submit to a preliminary screening test of the person's breath to determine if alcohol has been consumed by such person if the officer has reasonable grounds to believe that the person has alcohol in the person's body except that, if the officer has reasonable grounds to believe the person has been operating or attempting to operate a vehicle under the influence of alcohol, the provisions of K.S.A. 8-1012, and amendments thereto, shall apply. No waiting period shall apply to the use of a preliminary breath test under this subsection. If the person submits to the test, the results shall be used for the purpose of assisting law enforcement officers in determining whether an arrest should be made for violation of this section. A law enforcement officer may arrest a person based in whole or in part upon the results of a preliminary screening test. Such results or a refusal to submit to a preliminary breath test shall be admissible in court in any criminal action, but are not per se proof that the person has violated this section. The person may present to the court evidence to establish the positive preliminary screening test was not the result of a violation of this section.

~~(h)~~(i) (1) Any person less than 18 years of age who violates only this section shall not be detained or placed in a jail, as defined in K.S.A. 2014 Supp. 38-2302, and amendments thereto.

(2) Any person less than 18 years of age who is arrested only for a violation of this section shall not be detained or placed in a juvenile detention facility, as defined in K.S.A. 2014 Supp. 38-2302, and amendments thereto, for a period exceeding 24 hours, excluding Saturdays, Sundays and legal holidays.

(3) Any person less than 18 years of age at the time of the offense who is adjudicated

only of a violation of this section shall not be detained in a jail, juvenile detention facility, juvenile correctional facility or sanctions house, as defined in K.S.A. 2014 Supp. 38-2302, and amendments thereto.

~~(i)~~(j) This section shall be part of and supplemental to the Kansas liquor control act.

Sec. 10. K.S.A. 2014 Supp. 38-2231 and 41-727 are hereby repealed.";

And by renumbering sections accordingly;

On page 1, in the title, in line 1, by striking all after "concerning"; by striking all in lines 2 and 3; in line 4, by striking all before the period and inserting "children and minors; enacting the safe families act; relating to when law enforcement officers shall take a child into custody; relating to possession or consumption of alcoholic beverages, immunity from criminal prosecution for certain minors; amending K.S.A. 2014 Supp. 38-2231 and 41-727 and repealing the existing sections";

And your committee on conference recommends the adoption of this report.

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Conferees on part of House

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Conferees on part of Senate