

SENATE BILL No. 158

By Committee on Judiciary

2-5

1 AN ACT concerning the revised Kansas code for care of children;
2 establishing a CARE family program for foster care; amending K.S.A.
3 2014 Supp. 38-2218 and repealing the existing section.
4

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

6 New Section 1. (a) The secretary shall establish a special category of
7 foster care to be known as a CARE family. A CARE family may be
8 selected and licensed by the secretary only if the family meets the
9 requirements specified in this section. The secretary shall promulgate rules
10 and regulations to implement the provisions of this section on or before
11 January 1, 2016.

12 (b) A family shall meet the following requirements, and any
13 additional requirements imposed by the secretary, to become licensed as a
14 CARE family:

15 (1) A husband and wife team married for at least seven years, in a
16 faithful, loving and caring relationship and with no sexual relations outside
17 of the marriage;

18 (2) submit to a background check on the husband and wife;

19 (3) no current use of tobacco by anyone in the family's home;

20 (4) no history of unlawful drug use by anyone in the family's home;

21 (5) no alcoholic liquor or cereal malt beverages in the family's home;

22 (6) both the husband and wife have attained at least a high school
23 diploma or equivalent;

24 (7) either the husband or wife, or both, does not work outside the
25 home;

26 (8) the family is involved in a social group larger than the family that
27 meets regularly, preferably at least weekly; and

28 (9) provide the secretary at least three references from people that
29 personally know the family well.

30 (c) Notwithstanding any law to the contrary, a CARE family's home
31 shall not be considered a child care facility and shall not be required to be
32 licensed under article 5 of chapter 65 of the Kansas Statutes Annotated,
33 and amendments thereto.

34 (d) (1) The secretary shall insure that each CARE family is highly
35 trained in typical foster care issues, in the law concerning foster children
36 and in mental health counseling for their family. Continuing education and

1 monthly meetings with other CARE families in the same area shall be used
2 to provide such ongoing training and counseling sessions.

3 (2) The secretary shall insure that each CARE family is visited
4 monthly in the home, preferably as guests at a family meal or family
5 activity in a social setting, to verify that the family is performing well as a
6 CARE family.

7 (3) The secretary shall reimburse the CARE family for child care for
8 each child placed with a CARE family, but child care shall not exceed four
9 hours per week.

10 (4) The secretary shall pay each CARE family at a rate substantially
11 higher than that of other foster care homes.

12 (e) (1) The secretary shall notify each CARE family that the CARE
13 family has a right to submit a report. Copies of the report shall be available
14 to the parties and interested parties. The report made by the CARE family
15 shall be on a form created and provided by the Kansas department for
16 children and families.

17 (2) Except as otherwise provided by law, in all proceedings under the
18 revised Kansas code for care of children, the court shall require notice to
19 the CARE family and the CARE family shall have the right to be heard.

20 (f) (1) Notwithstanding any other law to the contrary, a CARE family
21 shall determine how best to meet the educational needs of any child placed
22 with the family and shall have sole discretion in the educational placement
23 of the child. If a child is not enrolled in a school district by the CARE
24 family, the CARE family shall notify the secretary of such decision, and
25 such notice shall include the school and curriculum being used to educate
26 such child. The secretary shall reimburse the CARE family for educational
27 expenses incurred for each child who is not enrolled in a school district in
28 an amount not to exceed the statewide average state aid per pupil. Such
29 reimbursements shall be paid from the CARE family education fund
30 established in this subsection. If sufficient funds are not available for such
31 reimbursements, then the requests for reimbursement shall be considered
32 in the order received when funds are available for such purpose.

33 (2) The secretary shall notify the state board of education of every
34 child not enrolled in a school district by a CARE family. Annually, on or
35 before July 1, beginning on July 1, 2016, the state board of education shall
36 certify to the director of accounts and reports the amount required for
37 CARE family state aid pursuant to this subsection, and an amount equal
38 thereto shall be transferred by the director from the state general fund to
39 the CARE family education fund. All transfers made in accordance with
40 the provisions of this subsection shall be considered to be demand
41 transfers from the state general fund.

42 (3) There is hereby established in the state treasury the CARE family
43 education fund to be administered by the secretary. All expenditures from

1 such fund shall be made in accordance with appropriation acts upon
2 warrants of the director of accounts and reports issued pursuant to
3 vouchers approved by the secretary or the secretary's designee. All moneys
4 credited to the CARE family education fund shall be expended to
5 reimburse CARE families for educational expenses incurred for children
6 not enrolled in a school district by a CARE family.

7 (4) As used in this subsection:

8 (A) "Statewide average state aid per pupil" means the average amount
9 of general state aid per pupil plus the average amount of supplemental
10 general state aid per pupil for the immediately preceding school year.

11 (B) "Average amount of general state aid per pupil" means the total
12 general state aid for all school districts as determined by the state board for
13 the immediately preceding school year divided by the total enrollment of
14 pupils in all school districts for the immediately preceding school year.

15 (C) "Average amount of supplemental general state aid per pupil"
16 means the total supplemental general state aid for all school districts as
17 determined by the state board for the immediately preceding school year
18 divided by the total enrollment of pupils in all school districts for the
19 immediately preceding school year.

20 (5) For purposes of this subsection and for calculating enrollment
21 pursuant to K.S.A. 72-6405 et seq., and amendments thereto, a resident
22 school district shall not count any student placed with a CARE family and
23 not enrolled in a school district as a pupil of such resident school district.
24 As used in this paragraph, "resident school district" means the school
25 district in which the student resides and would otherwise be enrolled.

26 (g) Notwithstanding any other law to the contrary, the secretary shall
27 not remove a child from a CARE family placement unless:

28 (1) The child is removed to achieve permanency through
29 reintegration, adoption, appointment of a permanent custodian or another
30 planned permanent living arrangement; or

31 (2) the secretary finds probable cause that:

32 (A) (i) The child is likely to sustain harm if not immediately removed
33 from the home; (ii) allowing the child to remain in the home is contrary to
34 the welfare of the child; or (iii) immediate placement of the child is in the
35 best interest of the child; and

36 (B) reasonable efforts have been made to prevent the unnecessary
37 removal of the child from the CARE family's home or that an emergency
38 exists which threatens the safety of the child.

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

41 (i) The provisions of this section shall expire on July 1, 2021.

42 Sec. 2. K.S.A. 2014 Supp. 38-2218 is hereby amended to read as
43 follows: 38-2218. (a) When the court has granted legal custody of a child

1 in a hearing under the code to an agency, association or individual, the
2 custodian or an agent designated by the custodian shall have authority to
3 make educational decisions for the child if the parents of the child are
4 unknown or unavailable. When the custodian of the child is the secretary,
5 and the parents of the child are unknown or unavailable, and the child
6 appears to be an exceptional child who requires special education, the
7 secretary shall immediately notify the state board of education, or a
8 designee of the state board, and the school district in which the child is
9 residing that the child is in need of an education advocate. *If the secretary*
10 *has placed the child with a CARE family, as defined in section 1, and*
11 *amendments thereto, the CARE family shall become the education*
12 *advocate for such child.* As used in this section, a parent is unavailable if:

13 (1) Repeated attempts have been made to contact the parent to
14 provide notice of an IEP meeting and secure the parent's participation and
15 such attempts have been unsuccessful;

16 (2) having been provided actual notice of an IEP meeting, the parent
17 has failed or refused to attend and participate in the meeting; or

18 (3) the parent's whereabouts are unknown so that notice of an IEP
19 meeting cannot be given to the parent. As soon as possible after
20 notification, the state board of education, or its designee, shall appoint an
21 education advocate for the child.

22 (b) If the secretary changes the placement of a pupil from one school
23 district to another or to another school within the same district, *or a CARE*
24 *family changes such placement,* it shall be the duty of the secretary to
25 transfer, or make provision for the transfer, of all school records of such
26 pupil to the district or school to which the pupil is transferred. Such school
27 records shall be transferred at the same time that the pupil is transferred or
28 as soon as possible thereafter.

29 (c) As used in this section, the terms "exceptional child," "special
30 education," and "education advocate" have the meanings respectively
31 ascribed thereto in the special education for exceptional children act,
32 K.S.A. 72-961 et seq., and amendments thereto. The term "pupil" means a
33 child living in a school district as a result of a placement therein by the
34 secretary pursuant to this code.

35 Sec. 3. K.S.A. 2014 Supp. 38-2218 is hereby repealed.

36 Sec. 4. This act shall take effect and be in force from and after its
37 publication in the statute book.