

SENATE BILL No. 393

By Committee on Public Health and Welfare

2-2

1 AN ACT concerning the the Kansas family law code; relating to child
2 custody, residency and parenting time; consideration of domestic abuse;
3 amending K.S.A. 2015 Supp. 23-3201 and 23-3203 and repealing the
4 existing sections.

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

7 Section 1. K.S.A. 2015 Supp. 23-3201 is hereby amended to read as
8 follows: 23-3201. The court shall determine custody—~~or~~, residency *and*
9 *parenting time* of a child in accordance with the best interests of the child.

10 Sec. 2. K.S.A. 2015 Supp. 23-3203 is hereby amended to read as
11 follows: 23-3203. (a) In determining the issue of ~~child~~ custody, residency
12 and parenting time *of a child*, the court shall consider all relevant factors,
13 including, but not limited to:

14 ~~(a)~~ (1) Each parent's role and involvement with the minor child before
15 and after separation;

16 ~~(b)~~ (2) the desires of the child's parents as to custody or residency;

17 ~~(c)~~ (3) the desires of a child of sufficient age and maturity as to the
18 child's custody or residency;

19 ~~(d)~~ (4) the age of the child;

20 ~~(e)~~ (5) the emotional and physical needs of the child;

21 ~~(f)~~ (6) the interaction and interrelationship of the child with parents,
22 siblings and any other person who may significantly affect the child's best
23 interests;

24 ~~(g)~~ (7) the child's adjustment to the child's home, school and
25 community;

26 ~~(h)~~ (8) the willingness and ability of each parent to respect and
27 appreciate the bond between the child and the other parent and to allow for
28 a continuing relationship between the child and the other parent, *except*
29 *that a parent's actions shall not be considered with respect to this factor if*
30 *the court finds that such parent is acting to protect the child from*
31 *witnessing or being a victim of domestic abuse by the other parent;*

32 ~~(i)~~ ~~evidence of spousal abuse, either emotional or physical;~~

33 ~~(j)~~ (9) the ability of the parties to communicate, cooperate and
34 manage parental duties;

35 ~~(k)~~ (10) the school activity schedule of the child;

36 ~~(l)~~ (11) the work schedule of the parties;

1 ~~(m)~~ (12) the location of the parties' residences and places of
2 employment;

3 ~~(n)~~ (13) the location of the child's school;

4 ~~(o)~~ (14) whether a parent is subject to the registration requirements of
5 the Kansas offender registration act, K.S.A. 22-4901 et seq., and
6 amendments thereto, or any similar act in any other state, or under military
7 or federal law;

8 ~~(p)~~ (15) whether a parent has been convicted of abuse of a child,
9 K.S.A. 21-3609, prior to its repeal, or K.S.A. 2015 Supp. 21-5602, and
10 amendments thereto;

11 ~~(q)~~ (16) whether a parent is residing with an individual who is subject
12 to registration requirements of the Kansas offender registration act, K.S.A.
13 22-4901 et seq., and amendments thereto, or any similar act in any other
14 state, or under military or federal law; ~~and~~

15 ~~(r)~~ (17) whether a parent is residing with an individual who has been
16 convicted of abuse of a child, K.S.A. 21-3609, prior to its repeal, or K.S.A.
17 2015 Supp. 21-5602, and amendments thereto; *and*

18 (18) *whether domestic abuse is occurring or has occurred.*

19 (b) (1) *As used in this section, "domestic abuse" means:*

20 (A) *A pattern or history of abusive behavior that is used by one*
21 *person to gain or maintain domination and control over an intimate*
22 *partner or household member as defined in K.S.A. 60-3102, and*
23 *amendments thereto, which may include emotional abuse or economic*
24 *abuse; or*

25 (B) *an act of domestic violence as defined in K.S.A. 2015 Supp. 21-*
26 *5111, and amendments thereto, which may include an act of abuse as*
27 *defined in K.S.A. 60-3102, and amendments thereto, stalking as defined in*
28 *K.S.A. 60-31a02, and amendments thereto, or sexual assault as defined in*
29 *K.S.A. 74-7325, and amendments thereto.*

30 (2) *In determining whether domestic abuse is occurring or has*
31 *occurred, the court may:*

32 (A) *Consider the results of a domestic violence offender assessment*
33 *conducted by a certified batterer intervention program, or order such an*
34 *assessment; and*

35 (B) *consider all relevant information concerning each parent,*
36 *including, but not limited to:*

37 (i) *Any protective order included in K.S.A. 2015 Supp. 21-5924, and*
38 *amendments thereto; and*

39 (ii) *any criminal convictions.*

40 (3) *If the court finds that domestic abuse has occurred:*

41 (A) *Such finding shall be considered a primary factor, and the factors*
42 *listed in subsection (a) shall be considered in light of this factor;*

43 (B) *the court shall make findings on the record concerning the*

1 *specific information the court considered and relied upon in making such*
2 *finding; and*

3 *(C) the court shall state in the court's order regarding custody,*
4 *residency and parenting time the reasons why the order is in the best*
5 *interests of the child, and how the safety of the child and the other parent*
6 *have been considered.*

7 *(4) If the court ordered a parent to undergo a domestic violence*
8 *offender assessment conducted by a certified batterer intervention*
9 *program and the court finds that domestic abuse has occurred, the court*
10 *may order such parent to follow all recommendations made by such*
11 *program.*

12 Sec. 3. K.S.A. 2015 Supp. 23-3201 and 23-3203 are hereby repealed.

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