

SENATE BILL No. 280

By Committee on Judiciary

1-16

1 AN ACT concerning family law; relating to parentage; legal custody,
2 residency and parenting time; amending K.S.A. 2017 Supp. 23-2201
3 and 23-2215 and repealing the existing sections; also repealing K.S.A.
4 2017 Supp. 23-2225.

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

7 Section 1. K.S.A. 2017 Supp. 23-2201 is hereby amended to read as
8 follows: 23-2201. (a) K.S.A. 2017 Supp. 23-2201 and 23-2205 through ~~23-~~
9 ~~2225~~ 23-2224, and ~~acts amendatory thereto and supplemental thereof~~
10 ~~amendments thereto~~, shall be known and may be cited as the Kansas
11 parentage act.

12 (b) Proceedings concerning parentage of a child shall be governed by
13 this act except to the extent otherwise provided by the Indian child welfare
14 act of 1978 (25 U.S.C. §§ 1901 et seq.).

15 Sec. 2. K.S.A. 2017 Supp. 23-2215 is hereby amended to read as
16 follows: 23-2215. (a) The judgment or order of the court determining the
17 existence or nonexistence of the parent and child relationship is
18 determinative for all purposes, but if any person necessary to determine
19 the existence of a father and child relationship for all purposes has not
20 been joined as a party, a determination of the paternity of the child shall
21 have only the force and effect of a finding of fact necessary to determine a
22 party's duty of support.

23 (b) If the judgment or order of the court is at variance with the child's
24 birth certificate, the court shall order that a new birth certificate be issued,
25 but only if any man named as the father on the birth certificate is a party to
26 the action.

27 (c) Upon adjudging that a party is the parent of a minor child, the
28 court shall make provision for support and education of the child under
29 article 30 of chapter 23 of the Kansas Statutes Annotated, and amendments
30 thereto. The court may order the payment of all or a portion of the
31 necessary medical expenses incident to the child's birth. The court may
32 order the support and education expenses to be paid by either or both
33 parents for the minor child.

34 (d) If both parents are parties to the action, the court shall enter ~~such~~
35 ~~orders regarding~~ *for legal custody, residency and parenting time as that*
36 *the court considers to be in the child's best interest of the child interests under*

1 *article 32 of chapter 23 of the Kansas Statutes Annotated, and*
2 *amendments thereto.*

3 ~~If the parties have an agreed parenting plan it shall be presumed the~~
4 ~~agreed parenting plan is in the best interest of the child. This presumption~~
5 ~~may be overcome and the court may make a different order if the court~~
6 ~~makes specific findings of fact stating why the agreed parenting plan is not~~
7 ~~in the best interest of the child. If the parties are not in agreement on a~~
8 ~~parenting plan, each party shall submit a proposed parenting plan to the~~
9 ~~court for consideration at such time before the final hearing as may be~~
10 ~~directed by the court.~~

11 ~~(c) If during the proceedings the court determines that there is~~
12 ~~probable cause to believe that the child is a child in need of care, as~~
13 ~~defined by subsections (d)(1), (d)(2), (d)(3) or (d)(11) of K.S.A. 2017-~~
14 ~~Supp. 38-2202, and amendments thereto, or that neither parent is fit to~~
15 ~~have residency, the court may award temporary residency of the child to a~~
16 ~~grandparent, aunt, uncle or adult sibling, or another person or agency if the~~
17 ~~court finds by written order that: (1) (A) The child is likely to sustain harm~~
18 ~~if not immediately removed from the home; (B) allowing the child to~~
19 ~~remain in home is contrary to the welfare of the child; or (C) immediate~~
20 ~~placement of the child is in the best interest of the child; and (2)~~
21 ~~reasonable efforts have been made to maintain the family unit and prevent~~
22 ~~the unnecessary removal of the child from the child's home or that an~~
23 ~~emergency exists which threatens the safety of the child. In making such a~~
24 ~~residency order, the court shall give preference, to the extent that the court~~
25 ~~finds it is in the best interests of the child, first to awarding such residency~~
26 ~~to a relative of the child by blood, marriage or adoption and second to~~
27 ~~awarding such residency to another person with whom the child has close~~
28 ~~emotional ties. The court may make temporary orders for care, support,~~
29 ~~education and visitation that it considers appropriate. Temporary residency~~
30 ~~orders are to be entered in lieu of temporary orders provided for in K.S.A.~~
31 ~~2017 Supp. 38-2243 and 38-2244, and amendments thereto, and shall~~
32 ~~remain in effect until there is a final determination under the revised~~
33 ~~Kansas code for care of children. An award of temporary residency under~~
34 ~~this subsection shall not terminate parental rights nor give the court the~~
35 ~~authority to consent to the adoption of the child. When the court enters~~
36 ~~orders awarding temporary residency of the child to an agency or a person~~
37 ~~other than the parent, the court shall refer a transcript of the proceedings to~~
38 ~~the county or district attorney. The county or district attorney shall file a~~
39 ~~petition as provided in K.S.A. 2017 Supp. 38-2234, and amendments~~
40 ~~thereto, and may request termination of parental rights pursuant to K.S.A.~~
41 ~~2017 Supp. 38-2266, and amendments thereto. The costs of the~~
42 ~~proceedings shall be paid from the general fund of the county. If a final~~
43 ~~determination is made that the child is not a child in need of care, the~~

1 county or district attorney shall notify the court in writing and the court,
2 after a hearing, shall enter appropriate custody orders pursuant to this
3 section. If the same judge presides over both proceedings, the notice is not
4 required. Any order pursuant to the revised Kansas code for care of
5 children shall take precedence over any similar order under this section.

6 (f)-(e) (1) In entering an original order for support of a child under
7 this section, the court may award an additional judgment to the mother or
8 any other party who made expenditures for support and education of the
9 child from the date of birth to the date the order is entered. If the
10 determination of paternity is based upon a presumption arising under
11 K.S.A. 2017 Supp. 23-2208, and amendments thereto, the court shall
12 award an additional judgment to reimburse all or part of the expenses of
13 support and education of the child from at least the date the presumption
14 first arose to the date the order is entered, except that no additional
15 judgment need be awarded for amounts accrued under a previous order for
16 the child's support.

17 (2) The court may consider any affirmative defenses pled and proved
18 in making an award under this subsection.

19 (3) The amount of any award made under this subsection shall be
20 determined by application of the Kansas child support guidelines. For any
21 period occurring five years or less before or after commencement of the
22 action, there is a rebuttable presumption that such child support guidelines
23 amount reflects the actual expenditures made on the child's behalf during
24 that period. For any period occurring more than five years before
25 commencement of the action, the person seeking the award has the burden
26 of proving that the total amount requested for that period does not exceed
27 expenditures actually made on the child's behalf during that period.

28 Sec. 3. K.S.A. 2017 Supp. 23-2201, 23-2215 and 23-2225 are hereby
29 repealed.

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