

HOUSE BILL No. 2665

By Committee on Judiciary

2-12

1 AN ACT concerning children and minors; enacting the Kansas code for
2 children; amending K.S.A. 39-7,149 and K.S.A. 2013 Supp. 23-2204,
3 23-2208, 23-2209, 23-2215, 23-2225, 23-3004, 23-3103, 23-3201, 23-
4 3202, 23-3203, 23-3205, 23-3206, 23-3207, 23-3210, 23-3211, 23-
5 3212, 23-3213, 23-3217, 23-3221, 23-3222, 23-3301, 23-3302, 23-
6 3403, 23-3503, 23-3510, 38-2302, 39-7,145, 59-2136, 72-53,106 and
7 75-7023 and repealing the existing sections; also repealing K.S.A. 38-
8 101, 38-102, 38-103, 38-104, 38-108, 38-109, 38-110, 38-111, 38-112,
9 38-115, 38-116, 38-120, 38-122, 38-123, 38-123a, 38-123b, 38-134,
10 38-135, 38-136, 38-137, 38-138, 38-139, 38-141, 38-306, 38-315, 38-
11 319, 38-320, 38-321, 38-322, 38-323, 38-324, 38-325, 38-326, 38-327,
12 38-328, 38-329, 38-335, 38-336, 38-337, 38-338, 38-339, 38-340, 38-
13 1201, 38-1202, 38-1203, 38-1204, 38-1205, 38-1206, 38-1701, 38-
14 1702, 38-1703, 38-1704, 38-1705, 38-1706, 38-1707, 38-1708, 38-
15 1709, 38-1710, 38-1711, 38-1712, 38-1713, 38-1714, 38-1715, 38-
16 1716, 38-1717, 38-1718, 38-1719, 38-1720, 38-1721, 38-1722, 38-
17 1723, 38-1724, 38-1725, 38-1726 and 38-1901 and K.S.A. 2013 Supp.
18 38-123a, 38-140, 38-142, 38-143, 38-144, 38-145, 38-146, 38-147, 38-
19 148, 38-149, 38-1008, 38-1009, 38-1010, 38-1011, 38-1518, 38-2201,
20 38-2202, 38-2203, 38-2204, 38-2205, 38-2206, 38-2207, 38-2208, 38-
21 2209, 38-2210, 38-2211, 38-2212, 38-2213, 38-2214, 38-2215, 38-
22 2216, 38-2217, 38-2218, 38-2219, 38-2220, 38-2221, 38-2222, 38-
23 2223, 38-2224, 38-2225, 38-2226, 38-2227, 38-2228, 38-2229, 38-
24 2230, 38-2231, 38-2232, 38-2233, 38-2234, 38-2235, 38-2236, 38-
25 2237, 38-2238, 38-2239, 38-2240, 38-2241, 38-2242, 38-2243, 38-
26 2244, 38-2245, 38-2246, 38-2247, 38-2248, 38-2249, 38-2250, 38-
27 2251, 38-2252, 38-2253, 38-2254, 38-2255, 38-2256, 38-2257, 38-
28 2258, 38-2259, 38-2260, 38-2261, 38-2262, 38-2263, 38-2264, 38-
29 2265, 38-2266, 38-2267, 38-2268, 38-2269, 38-2270, 38-2271, 38-
30 2272, 38-2273, 38-2274, 38-2275, 38-2276, 38-2277, 38-2278, 38-
31 2279, 38-2280, 38-2281, 38-2282, 38-2283, 38-2284, 38-2285, 38-
32 2286 and 38-2287.

33

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

35 New Section 1. The period of minority extends in all persons to the
36 age of 18 years, except that every person 16 years of age or over who is or

1 has been married shall be considered of the age of majority in all matters
2 relating to contracts, property rights, liabilities and the capacity to sue and
3 be sued.

4 New Sec. 2. Except as otherwise provided by K.S.A. 38-615 through
5 38-622, and amendments thereto, a minor is bound not only by contracts
6 for necessities, but also by the minor's other contracts, unless the minor
7 disaffirms them within a reasonable time after the minor attains the minor's
8 majority and restores to the other party all money or property received by
9 the minor by virtue of the contract and remaining within the minor's
10 control at any time after the minor attains the minor's majority.

11 New Sec. 3. No contract can be thus disaffirmed in cases where, on
12 account of the minor's own misrepresentations as to such minor's majority
13 or from such minor having engaged in business as an adult, the other party
14 had good reason to believe the minor capable of contracting.

15 New Sec. 4. When a contract for the personal service of a minor has
16 been made with such minor alone, and those services are afterward
17 performed, payment made therefor to such minor in accordance with the
18 terms of the contract is a full satisfaction for those services, and the parent
19 or guardian cannot recover therefor.

20 New Sec. 5. The district courts in this state shall have authority to
21 confer upon minors the rights of majority, concerning contracts and real
22 and personal property, and to authorize and empower minors to purchase,
23 hold, possess and control in their own person and right, and without the
24 intervention or control of a guardian or trustee, any goods, chattels, rights,
25 interests in lands, tenements and effects by such minor lawfully acquired
26 or inherited; and such minor shall have full power to hold, convey and
27 dispose of the same, and to make contracts and be subject to all the
28 liabilities incident thereto, to sue and be sued, and in all respects to
29 exercise and enjoy all rights of property and of contracts in the same
30 manner and to the same extent as persons at the age of majority.

31 New Sec. 6. (a) Any minor age 15 or older, desiring to obtain the
32 rights of majority for the purposes described in section 5, and amendments
33 thereto, may, by such minor's next friend, file a petition in the district court
34 of the county in which such minor resides, setting forth: (1) The age of the
35 minor petitioner, and that such petitioner is then and has been a bona fide
36 resident of such county for at least one year next preceding the filing of the
37 petition; and (2) the cause for which the petitioner seeks to obtain the
38 rights of majority. Such petition shall be filed as in other cases.

39 (b) Upon proof in open court of the truth of the allegations in such
40 petition and that such petitioner is a person of sound mind and able to
41 transact such petitioner's own affairs and that the interest of the petitioner
42 shall be promoted thereby, the court shall order and decree that the
43 petitioner be empowered to exercise the rights of majority for any and all

1 purposes described in section 5, and amendments thereto. Such order and
2 decree shall be entered on the record and thereafter all acts by such
3 petitioner done and performed concerning any contract, rights in action or
4 interests in real or personal property, shall have the same force, validity
5 and effect as if made by a person of full age.

6 New Sec. 7. During the trial of an action or the hearing of any
7 proceeding or examination in which vulgar, obscene or immoral evidence
8 is elicited or produced, the court hearing the proceeding or examination
9 may expel all minors from the courtroom during that particular time of
10 testimony. The court shall not bar nor exclude minors for the sole purpose
11 of keeping them out of the courtroom.

12 New Sec. 8. Any corporation heretofore or hereafter organized under
13 the laws of the state of Kansas having for its purpose the care and
14 maintenance of destitute and friendless children, and being authorized by
15 law to surrender children for adoption, is hereby authorized and
16 empowered to receive and retain such children, and provide them with
17 homes until they reach their majority, and to stand at all times in loco
18 parentis to such children, until it surrenders them to individuals for
19 adoption.

20 New Sec. 9. Any person receiving bodily injury or any person,
21 partnership, corporation, political subdivision or other entity whose
22 property has been damaged or destroyed shall be entitled to recover
23 damages in an appropriate action at law in a court of competent
24 jurisdiction from the parents of any child living with the parents, who
25 maliciously or willfully injured such person or damaged or destroyed such
26 property while under the age of 18 years. Such recovery shall be limited to
27 the actual damages in an amount not to exceed \$5,000, in addition to
28 taxable court costs, unless a jury finds that the malicious or willful act of
29 such minor causing such injury, damage or destruction is the result of
30 parental neglect, in which event the \$5,000 limitation does not apply.
31 Recovery under this section for bodily injury shall be limited to actual
32 medical expenses.

33 New Sec. 10. Any parent, including a parent who is a minor, whether
34 married or unmarried, may consent to the performance upon such parent's
35 child of a medical, surgical or post mortem procedure by a person licensed
36 to practice medicine or surgery. The consent of a parent who is a minor
37 shall not be voidable because of such minority, but for such purpose a
38 parent who is a minor shall be deemed to have the same legal capacity to
39 act and shall have the same powers and obligations as has a person of legal
40 age.

41 New Sec. 11. Notwithstanding any other provision of law, an
42 unmarried pregnant minor where no parent or guardian is available may
43 give consent to the furnishing of hospital, medical and surgical care related

1 to her pregnancy, and such consent shall not be subject to disaffirmance
2 because of minority. The consent of a parent or guardian of an unmarried
3 pregnant minor shall not be necessary in order to authorize hospital,
4 medical and surgical care related to her pregnancy, where no parent or
5 guardian is available.

6 New Sec. 12. Any person 16 years of age or older shall be eligible to
7 donate blood voluntarily without the necessity of obtaining parental
8 permission or authorization. No person 16 or 17 years of age shall receive
9 compensation for any such donation without parental permission or
10 authorization.

11 New Sec. 13. Notwithstanding any other provision of law, any minor
12 16 years of age or older, where no parent or guardian is immediately
13 available, may give consent to the performance and furnishing of hospital,
14 medical or surgical treatment or procedures and such consent shall not be
15 subject to disaffirmance because of minority. The consent of a parent or
16 guardian of such a minor shall not be necessary in order to authorize the
17 proposed hospital, medical or surgical treatment or procedures.

18 New Sec. 14. (a) As used in this section:

19 (1) "Child" means a person under 18 years of age who has been
20 removed from the home of a relative as a result of judicial determination
21 and whose placement and care is the responsibility of the secretary.

22 (2) "Family foster home" means a private home in which care is
23 given for 24 hours a day for children away from their parent or guardian
24 and which is licensed under K.A.R. 28-4-311 et seq.

25 (3) "Foster family" means all persons living in the foster home other
26 than foster children.

27 (4) "Foster parent" means the licensee who is responsible for the care
28 of foster children.

29 (5) "Secretary" means the secretary for children and families.

30 (b) In order to assist the foster family to make an informed decision
31 regarding their acceptance of a particular child, to help the foster family
32 anticipate problems which may occur during the child's placement and to
33 help the foster family meet the needs of the child in a constructive manner,
34 the secretary shall seek to obtain and shall provide the following
35 information to the foster parent as the information becomes available to
36 the secretary:

37 (1) Information about the child's family and the child's relationship to
38 the family which may affect the placement;

39 (2) medical history of the child, including third-party coverage which
40 may be available to the child; and

41 (3) education history, to include present grade placement, special
42 strengths and weaknesses.

43 New Sec. 15. (a) Subject to the provisions of this section, a parent

1 may delegate in writing the parent's authority to consent to the
2 immunization of a minor to any of the following individuals, not in order
3 of priority:

- 4 (1) A grandparent by birth or adoption;
- 5 (2) an adult brother or sister or half brother or half sister, by birth or
6 adoption;
- 7 (3) an adult aunt or uncle by birth or adoption;
- 8 (4) a stepparent; or
- 9 (5) another adult who has care and control of the minor.

10 (b) A grandparent, brother or sister, aunt or uncle or stepparent of a
11 minor who is the primary caregiver of a minor and who may consent to the
12 immunization of the minor under subsection (a) may delegate in writing
13 the authority to consent to immunization of the minor to another person
14 listed in subsection (a).

15 (c) A health care provider may rely on a notarized document from
16 another state, territory or country that contains substantially the same
17 information as is required in any immunization consent rules and
18 regulations of the department of health and environment if the document is
19 presented for consent by a person listed in subsection (a).

20 (d) A person who consents to immunization of a minor under this
21 section shall provide the health care provider with sufficient and accurate
22 health information about the minor for whom the consent is given and, if
23 necessary, sufficient and accurate health information about the minor's
24 family to enable the person providing the consent and the health care
25 provider to determine adequately the risks and benefits inherent in the
26 proposed immunization and determine whether the immunization is
27 advisable.

28 New Sec. 16. (a) Subject to the provisions of this section, the
29 following individuals, not in order of priority, may consent to the
30 immunization of a minor if a parent is not reasonably available and the
31 authority to consent is not denied under subsection (b):

- 32 (1) A grandparent by birth or adoption;
- 33 (2) an adult brother or sister or half brother or half sister, by birth or
34 adoption;
- 35 (3) an adult aunt or uncle by birth or adoption;
- 36 (4) a stepparent; or
- 37 (5) another adult who has care and control of the minor.

38 (b) A person may not consent to the immunization of a minor under
39 subsection (a) if:

- 40 (1) The person has actual knowledge that the parent has expressly
41 refused to give consent to the immunization; or
- 42 (2) the parent has told the person that the person may not consent to
43 the immunization of the minor or, in the case of a written authorization,

1 has withdrawn the authorization in writing.

2 (c) For purposes of this section, a parent is not reasonably available
3 if:

4 (1) The location of the parent is unknown;

5 (2) (A) a reasonable effort made by a person listed in subsection (a)
6 to locate and communicate with the parent for the purpose of obtaining
7 consent has failed; and (B) not more than 90 days have passed since the
8 date that the effort was made; or

9 (3) the parent has been contacted by a person listed in subsection (a)
10 and requested to consent to the immunization of the minor, and the parent:
11 (A) Has not acted on the request; and (B) has not expressly denied
12 authority to the person listed in subsection (a) to consent to the
13 immunization of the minor.

14 (d) A person authorized to consent to the immunization of a minor
15 under this section shall confirm in writing that the parent is not reasonably
16 available and the written confirmation shall be included in the minor's
17 medical record.

18 New Sec. 17. The responsibility of a health care provider to provide
19 information to a person consenting to the immunization of a minor as
20 provided by sections 15 and 16, and amendments thereto, is the same as
21 the health care provider's responsibility to a parent.

22 New Sec. 18. (a) In the absence of willful misconduct or gross
23 negligence, a health care provider who accepts the health history and other
24 information given by a person who is delegated the authority to consent to
25 the immunization of a minor as provided by sections 15 and 16, and
26 amendments thereto, shall not be liable for an adverse reaction related to
27 an immunization of the minor resulting from factual errors in the health
28 history or information given by the person to the health care provider.

29 (b) In the absence of willful misconduct or gross negligence, a health
30 care provider who relies on the consent of a person delegated the authority
31 to consent to the immunization of a minor as provided by sections 15 and
32 16, and amendments thereto, shall not be liable for damages arising from
33 reliance on such consent.

34 (c) Except for acts of willful misconduct or gross negligence, a
35 person who consents to the immunization of a minor as provided by
36 sections 15 and 16, and amendments thereto, shall not be liable for
37 damages arising from any such immunization administered by a person
38 authorized by law to administer immunizations in this state.

39 New Sec. 19. The provisions of sections 14 through 19, and
40 amendments thereto, shall not affect authority to consent to immunization
41 of a minor pursuant to K.S.A. 38-2316, and amendments thereto, or
42 pursuant to any other law.

43 New Sec. 20. (a) As used in this section:

1 (1) "Child" means a person under 18 years of age; and

2 (2) "parent" means and includes a natural parent, an adoptive parent,
3 a stepparent or a guardian or conservator of a child who is liable by law to
4 maintain, care for or support the child.

5 (b) It shall be the public policy of this state that parents shall retain
6 the fundamental right to exercise primary control over the care and
7 upbringing of their children in their charge. It is further the public policy
8 of this state that children shall have the right to protection from abuse and
9 neglect.

10 (c) Nothing in subsection (b) shall be interpreted to expand, diminish
11 or in any way alter the scope of the rights of parents or children to the
12 extent such rights exist as of the effective date of this act.

13 (d) Any parent may maintain a cause of action in state court or in any
14 court of competent jurisdiction for claims arising under the principles
15 established in subsection (b). Any person authorized by law to act on
16 behalf of a child may maintain a cause of action in the name of such child
17 in any court of competent jurisdiction for claims arising under the
18 principles established in subsection (b).

19 New Sec. 21. (a) There is hereby established the Kansas children's
20 cabinet which shall consist of 15 members as follows: (1) The secretary of
21 health and environment, or the secretary's designee; (2) the secretary for
22 children and families, or the secretary's designee; (3) the secretary of
23 corrections, or the secretary's designee; (4) one person appointed by the
24 speaker of the house of representatives; (5) one person appointed by the
25 minority leader of the house of representatives; (6) one person appointed
26 by the president of the senate; (7) one person appointed by the minority
27 leader of the senate; and (8) eight members of the public who are
28 interested in and knowledgeable about children and families, appointed by
29 the governor, who, subject to the provisions of subsection (d), shall include
30 persons who are children's advocates, members of organizations with
31 experience in programs that benefit children or other individuals who have
32 experience with children's programs and services in the private sector. The
33 members designated by subsection (a)(1), (a)(2) and (a)(3) shall be
34 nonvoting members of the Kansas children's cabinet and shall not be the
35 chairperson. All other members shall be voting members.

36 (b) (1) Except as provided in subsection (c)(2), the members of the
37 Kansas children's cabinet appointed by the governor, speaker, president
38 and minority leaders shall serve for terms of four years beginning October
39 1, 2014, and until their successors are appointed and qualified. The
40 governor shall appoint a chairperson of the committee from among the
41 members appointed by the governor. The chairperson shall serve in such
42 office throughout such member's current term of office and until a
43 successor is appointed and qualified. The members of the Kansas

1 children's cabinet may elect any additional officers from among its
2 members necessary to carry out the duties and functions of the Kansas
3 children's cabinet.

4 (2) Of the members first appointed by the governor, two shall be
5 appointed for terms of two years, two shall be appointed for terms of three
6 years and the member selected by the governor to be the chairperson shall
7 be appointed for a term of four years. The member first appointed by the
8 speaker of the house of representatives shall be appointed for a term of one
9 year, the member first appointed by the minority leader of the house of
10 representatives shall be appointed for a term of two years, the member first
11 appointed by the president of the senate shall be appointed for a term of
12 three years and the member first appointed by the minority leader of the
13 senate shall be appointed for a term of four years. All members appointed
14 by the governor pursuant to this paragraph shall begin their terms
15 beginning October 1, 2014.

16 (3) All members appointed to fill vacancies in the membership of the
17 Kansas children's cabinet and all members appointed to succeed members
18 appointed to membership on the Kansas children's cabinet shall be
19 appointed in like manner as that provided for the original appointment of
20 the member succeeded. All members appointed to fill vacancies of a
21 member of the Kansas children's cabinet appointed by the governor, the
22 speaker of the house of representatives, the minority leader of the house of
23 representatives, the president of the senate or the minority leader of the
24 senate shall be appointed to fill the unexpired term of such member.

25 (c) (1) No person shall serve on the Kansas children's cabinet if such
26 person has knowingly acquired a substantial interest in any business
27 working directly with the state and providing services to the Kansas
28 department for children and families. Any such person who knowingly
29 acquires such an interest shall vacate such member's position on the
30 Kansas children's cabinet.

31 (2) For purposes of this subsection, "substantial interest" means any
32 of the following:

33 (A) If an individual or an individual's spouse, either individually or
34 collectively, has owned within the preceding 12 months a legal or
35 equitable interest exceeding \$5,000 or 5% of any business working
36 directly with the state and provides services to the Kansas department for
37 children and families, whichever is less, the individual has a substantial
38 interest in that business.

39 (B) If an individual or an individual's spouse, either individually or
40 collectively, has received during the preceding calendar year compensation
41 which is or will be required to be included as taxable income on federal
42 income tax returns of the individual and spouse in an aggregate amount of
43 \$2,000 from any business or combination of businesses working directly

1 with the state and provides services to the Kansas department for children
2 and families, the individual has a substantial interest in that business or
3 combination of businesses.

4 (C) If an individual or an individual's spouse holds the position of
5 officer, director, associate, partner or proprietor of any business, the
6 individual has a substantial interest in that business, irrespective of that
7 amount of compensation received by the individual or the individual's
8 spouse.

9 (D) If an individual or an individual's spouse receives compensation
10 which is a portion or percentage of each separate fee or commission paid
11 to a business or combination of businesses, the individual has a substantial
12 interest in any client or customer who pays fees or commissions to the
13 business or combination of businesses from which fees or commissions
14 the individual or the individual's spouse, either individually or collectively,
15 received an aggregate of \$2,000 or more in the preceding calendar year.

16 (3) As used in this subsection, "client or customer" means a business
17 or combination of businesses.

18 (4) As used in this subsection, "business" means any entity which is
19 eligible to receive funds from the children's initiatives fund, from the
20 children's initiatives accountability fund, or from the family and children
21 trust account of the family and children investment fund.

22 (d) The Kansas children's cabinet shall meet upon the call of the
23 chairperson as necessary to carry out the duties and functions of the
24 Kansas children's cabinet. A quorum of the Kansas children's cabinet shall
25 be eight voting members.

26 (e) The Kansas children's cabinet shall have and perform the
27 following functions:

28 (1) Assist the governor in developing and implementing a
29 coordinated, comprehensive service delivery system to serve the children
30 and families of Kansas;

31 (2) identify barriers to service and gaps in service due to strict
32 definitions of boundaries between departments and agencies;

33 (3) facilitate inter-agency and inter-departmental cooperation toward
34 the common goal of serving children and families;

35 (4) investigate and identify methodologies for the combining of funds
36 across departmental boundaries to better serve children and families;

37 (5) propose actions needed to achieve coordination of funding and
38 services across departmental lines; and

39 (6) encourage and facilitate joint planning and coordination between
40 the public and private sectors to better serve the needs of children and
41 families.

42 (f) Members of the Kansas children's cabinet shall not be paid
43 compensation, but shall receive subsistence allowances, mileage and other

1 expenses as provided by K.S.A. 75-3223, and amendments thereto. The
2 subsistence allowances, mileage and other expenses as provided in K.S.A.
3 75-3223, and amendments thereto, shall be paid from available
4 appropriations of the Kansas department for children and families, except
5 that expenses of members who are employed by a state agency shall be
6 reimbursed by that state agency.

7 (h) Meetings and subcommittee meetings of the Kansas children's
8 cabinet shall be subject to the open meetings law.

9 New Sec. 22. (a) Sections 22 through 106, and amendments thereto,
10 shall be known and may be cited as the Kansas code for children.

11 (b) Proceedings pursuant to the Kansas code for children shall be
12 civil in nature and all proceedings, orders, judgments and decrees shall be
13 deemed to be pursuant to the parental power of the state. Any orders
14 pursuant to this code shall take precedence over any similar order under
15 chapter 23 of the Kansas Statutes Annotated, and amendments thereto, the
16 Kansas family law code; article 11 of chapter 38 of the Kansas Statutes
17 Annotated, and amendments thereto, determination of parentage; article 21
18 of chapter 59 of the Kansas Statutes Annotated, and amendments thereto,
19 adoption and relinquishment act; article 30 of chapter 59 of the Kansas
20 Statutes Annotated, and amendments thereto, guardians and conservators;
21 or article 31 of chapter 60 of the Kansas Statutes Annotated, and
22 amendments thereto, protection from abuse act, until jurisdiction under the
23 Kansas code for children is terminated.

24 (c) This code shall be construed to carry out the policies of the state
25 which are to:

26 (1) Provide that each child and family who comes within the
27 provisions of this code shall receive the care and respect that will best
28 serve the civil rights and welfare of children and families. It will be the
29 responsibility of the state to work toward maintaining the children in their
30 respective homes;

31 (2) ensure that the companionship, care, custody and management of
32 a parent over such parent's child is an interest greater than any property
33 right. The parent-child relationship is an important interest that undeniably
34 warrants deference, and absent a powerful countervailing interest, there is
35 a right of parents to direct the upbringing of their children. It is cardinal
36 that the custody, care and nurturing of the children resides first in the
37 parents, whose primary function and freedom include preparation for
38 obligations the state can neither supply nor hinder.

39 (3) ensure that the child is not a creature of the state and that those
40 who nurture them and direct their destiny have the right, coupled with the
41 high duty, to recognize and prepare such children for additional
42 obligations. As long as parents adequately care for their children, there is
43 no reason for the state to inject itself into the private realm of the family to

1 further question the ability of the parents to make the best decisions
2 concerning the rearing of their children.

3 (4) provide preventative and rehabilitative services, when
4 appropriate, to abused and neglected children and their families so, if
5 possible, such families can remain together without further threat to their
6 children;

7 (5) consider the safety and welfare of a child to be paramount in all
8 proceedings under this code;

9 (6) make the ongoing physical needs of the child decisive
10 considerations in proceedings under this code;

11 (7) acknowledge that the time perception of a child differs from that
12 of an adult and to dispose of all proceedings under this code without
13 unnecessary delay;

14 (8) investigate reports of child abuse and neglect thoroughly and
15 promptly;

16 (9) provide protection of children who have been subject to physical
17 abuse or neglect or sexual abuse; and

18 (10) place children in permanent family settings, in absence of
19 compelling reasons to the contrary.

20 (d) Nothing in this code shall be construed to permit discrimination
21 on the basis of disability.

22 (1) The disability of a parent shall not constitute a basis for a
23 determination that a child is a child in need of care, for the removal of
24 custody of a child from the parent or for the termination of parental rights
25 without a specific showing that there is a causal relation between the
26 disability and harm to the child.

27 (2) In cases involving a parent with a disability, determinations made
28 under this code shall consider the availability and use of accommodations
29 for the disability, including adaptive equipment and support services.

30 New Sec. 23. As used in this code, unless the context otherwise
31 indicates:

32 (a) "Abandon" or "abandonment" means to forsake, desert or, without
33 making appropriate provision for substitute care, cease providing care for
34 the child.

35 (b) "Adult correction facility" means any public or private facility,
36 secure or nonsecure, which is used for the lawful custody of accused or
37 convicted adult criminal offenders.

38 (c) "Aggravated circumstances" means the abandonment, torture,
39 chronic abuse, sexual abuse or chronic, life threatening neglect of a child.

40 (d) "Child in need of care" means a person less than 18 years of age
41 at the time of filing of the petition or issuance of an ex parte protective
42 custody order pursuant to section 74, and amendments thereto, who:

43 (1) Is without adequate parental care, control or subsistence and the

- 1 condition is not due solely to the lack of financial means of the child's
2 parents or other custodian;
- 3 (2) is without the care or control necessary for the child's physical,
4 mental or emotional health;
- 5 (3) has been physically abused or neglected or sexually abused;
- 6 (4) has been placed for care or adoption in violation of law;
- 7 (5) has been abandoned or does not have a known living parent;
- 8 (6) except in the case of a violation of K.S.A. 21-4204a, prior to its
9 repeal, or subsection (a)(14) of K.S.A. 2013 Supp. 21-6301, K.S.A. 41-
10 727, subsection (j) of K.S.A. 74-8810 or subsection (m) or (n) of K.S.A.
11 79-3321, and amendments thereto, or, does an act which, when committed
12 by a person under 18 years of age, is prohibited by state law, city
13 ordinance or county resolution but which is not prohibited when done by
14 an adult;
- 15 (7) has been residing in the same residence with a sibling or another
16 person under 18 years of age, who has been physically abused or
17 neglected, or sexually abused;
- 18 (8) has had a permanent custodian appointed and the permanent
19 custodian is no longer able or willing to serve.
- 20 (e) "Citizen review board" is a group of community volunteers
21 appointed by the court and whose duties are prescribed by sections 70 and
22 71, and amendments thereto.
- 23 (f) "Court-appointed special advocate" means a responsible adult
24 other than an attorney guardian ad litem who is appointed by the court to
25 represent the least detrimental alternative of a child, as provided in section
26 36, and amendments thereto, in a proceeding pursuant to this code.
- 27 (g) "Custody" means the status created, whether temporary, protective
28 or legal, by court order or statute which vests in a custodian, whether an
29 individual or an agency, the right to physical possession of the child and
30 the right to determine placement of the child, subject to restrictions placed
31 by the court.
- 32 (h) "Extended out of home placement" means a child has been in the
33 custody of the secretary and placed with neither parent for 15 of the most
34 recent 22 months beginning 60 days after the date at which a child in the
35 custody of the secretary was removed from the home.
- 36 (i) "Educational institution" means all schools at the elementary and
37 secondary levels.
- 38 (j) "Educator" means any administrator, teacher or other professional
39 or paraprofessional employee of an educational institution who has
40 exposure to a pupil specified in subsection (a) of K.S.A. 72-89b03, and
41 amendments thereto.
- 42 (k) "Harm" means physical injury or damage.
- 43 (l) "Interested party" means the grandparent of the child, a person

1 with whom the child has been living for a significant period of time when
2 the child in need of care petition is filed, and any person made an
3 interested party by the court pursuant to section 43, and amendments
4 thereto, or Indian tribe seeking to intervene that is not a party.

5 (m) "Jail" means:

6 (1) An adult jail or lockup; or

7 (2) a facility in the same building or on the same grounds as an adult
8 jail or lockup, unless the facility meets all applicable standards and
9 licensure requirements under law and there is: (A) Total separation of the
10 juvenile and adult facility spatial areas such that there could be no
11 haphazard or accidental contact between juvenile and adult residents in the
12 respective facilities; (B) total separation in all juvenile and adult program
13 activities within the facilities, including recreation, education, counseling,
14 health care, dining, sleeping and general living activities; and (C) separate
15 juvenile and adult staff, including management, security staff and direct
16 care staff such as recreational, educational and counseling.

17 (n) "Juvenile detention facility" means any secure public or private
18 facility, which must not be a jail, used for the lawful custody of accused or
19 adjudicated juvenile offenders.

20 (o) "Juvenile intake and assessment worker" means a responsible
21 adult authorized to perform intake and assessment services as part of the
22 intake and assessment system established pursuant to K.S.A. 75-7023, and
23 amendments thereto.

24 (p) "Kinship care" means the placement of a child in the home of the
25 child's relative or in the home of another adult with whom the child or the
26 child's parent already has a close emotional attachment.

27 (q) "Law enforcement officer" means any person who by virtue of
28 office or public employment is vested by law with a duty to maintain
29 public order or to make arrests for crimes, whether that duty extends to all
30 crimes or is limited to specific crimes.

31 (r) "Least detrimental alternative" means any action taken to be the
32 least detrimental to the child's well being or cause the least amount of
33 harm to the child, as determined by the court from the evidence presented.

34 (s) "Multidisciplinary team" means a group of persons appointed by
35 the court who has knowledge of the circumstances of a child in need of
36 care.

37 (t) "Neglect" means acts or omissions by a parent, guardian or person
38 responsible for the care of a child resulting in harm to a child, and the acts
39 or omissions are not due solely to the lack of financial means of the child's
40 parents or other custodian. Neglect may include, but shall not be limited to:
41 (1) Failure to provide the child with food, clothing or shelter necessary
42 to sustain the life or health of the child; or (2) failure to provide adequate
43 supervision of a child or to remove a child from a situation which requires

1 judgment or actions beyond the child's level of maturity, physical
2 condition or mental abilities and that results in bodily injury or a
3 likelihood of harm to the child. Neglect shall not include a parent
4 legitimately practicing religious beliefs who does not provide specific
5 medical treatment for a child because of such religious beliefs.

6 (u) "Parent" when used in relation to a child or children, includes a
7 guardian and every person who is by law liable to maintain, care for or
8 support the child.

9 (v) "Party" means the state, the petitioner, the child, any parent of the
10 child and an Indian child's tribe intervening pursuant to the Indian child
11 welfare act.

12 (w) "Permanency goal" means the outcome of the permanency
13 planning process which may be reintegration, adoption, appointment of a
14 permanent custodian or another planned permanent living arrangement.

15 (x) "Permanent custodian" means a judicially approved permanent
16 guardian of a child.

17 (y) "Physical abuse" means the infliction of physical harm or the
18 causing of a deterioration of a child and may include, but shall not be
19 limited to, maltreatment or exploiting a child to the extent that the child's
20 health or well-being is endangered.

21 (z) "Placement" means the designation by the individual or agency
22 having custody of where and with whom the child will live.

23 (aa) "Relative" means a person related by blood, marriage or adoption
24 but, when referring to a relative of a child's parent, does not include the
25 child's other parent.

26 (bb) "Secretary" means the secretary for children and families or the
27 secretary's designee.

28 (cc) "Secure facility" means a facility which is operated or structured
29 so as to ensure that all entrances and exits from the facility are under the
30 exclusive control of the staff of the facility, whether or not the person
31 being detained has freedom of movement within the perimeters of the
32 facility, or which relies on locked rooms and buildings, fences or physical
33 restraint in order to control behavior of its residents. No secure facility
34 shall be in a city or county jail.

35 (dd) "Sexual abuse" means any contact or interaction with a child in
36 which the child is being used for the sexual stimulation of the perpetrator,
37 the child or another person. Sexual abuse shall include allowing,
38 permitting or encouraging a child to engage in prostitution or to be
39 photographed, filmed or depicted in pornographic material.

40 (ee) "Shelter facility" means any public or private facility or home
41 other than a juvenile detention facility that may be used in accordance with
42 this code for the purpose of providing either temporary placement for
43 children in need of care prior to the issuance of a dispositional order or

1 longer term care under a dispositional order.

2 (ff) "Transition plan" means, when used in relation to a youth in the
3 custody of the secretary, an individualized strategy for the provision of
4 medical, mental health, education, employment and housing supports as
5 needed for the adult and, if applicable, for any minor child of the adult, to
6 live independently, and which specifically provides for the supports and
7 any services for which an adult with a disability is eligible, including, but
8 not limited to, funding for home and community based services waivers.

9 (gg) "Youth residential facility" means any home, foster home or
10 structure which provides 24-hour-a-day care for children and which is
11 licensed pursuant to article 5 of chapter 65 of the Kansas Statutes
12 Annotated, and amendments thereto.

13 New Sec. 24. (a) Proceedings concerning any child who may be a
14 child in need of care shall be governed by this code, except in those
15 instances when the court knows or has reason to know that an Indian child
16 is involved in the proceeding, in which case, the Indian child welfare act of
17 1978, 25 U.S.C. § 1901 et seq., applies. The Indian child welfare act may
18 apply to: The filing to initiate a child in need of care proceeding, section
19 84, and amendments thereto; ex parte custody orders, section 90, and
20 amendments thereto; temporary custody hearing, section 91, and
21 amendments thereto; adjudication, section 94, and amendments thereto;
22 burden of proof, section 97, and amendments thereto; disposition, section
23 102, and amendments thereto; permanency hearings, section 105, and
24 amendments thereto; termination of parental rights, sections 38, 39 and 40,
25 and amendments thereto; establishment of permanent custodianship,
26 section 39, and amendments thereto; the placement of a child in any foster,
27 pre-adoptive and adoptive home and the placement of a child in a
28 guardianship arrangement under article 30 of chapter 59 of the Kansas
29 Statutes Annotated, and amendments thereto, from the moment an Indian
30 child is removed and until the first hearing at which all sides are to be
31 present. The state shall be responsible for arranging daily visits, unless it
32 can show, by clear and convincing evidence, that this would cause severe
33 harm to the child or children.

34 (b) Subject to the uniform child custody jurisdiction and enforcement
35 act, K.S.A. 23-37,101 through 23-37,405, and amendments thereto, the
36 district court shall have original jurisdiction of proceedings pursuant to
37 this code.

38 (c) The court has jurisdiction over a child by the filing of a petition
39 pursuant to this code. When the court acquires jurisdiction over a child in
40 need of care, jurisdiction may continue until: (1) Findings were found
41 unsubstantiated, at which time the case shall be dismissed; (2) the child
42 becomes 18 years of age, or until June 1 of the school year during which
43 the child became 18 years of age if the child is still attending high school

1 unless there is no court approved transition plan, in which event,
2 jurisdiction may continue until a transition plan is approved by the court or
3 until the child reaches the age of 19; (3) the child has been adopted; or (4)
4 the child has been discharged by the court. Any child 18 years of age or
5 over may request, in writing to the court, that the jurisdiction of the court
6 cease. The court shall give notice of the request to all parties and interested
7 parties, and 10 days after receipt of the request, jurisdiction will cease.

8 (d) When it is no longer appropriate for the court to exercise
9 jurisdiction over a child, the court, upon its own motion or the motion of a
10 party or interested party at a hearing or upon agreement of all parties or
11 interested parties, shall enter an order discharging the child. Except upon
12 request of the child pursuant to subsection (c), the court shall not enter an
13 order discharging a child until June 1 of the school year during which the
14 child becomes 18 years of age if the child is in an out-of-home placement,
15 is still attending high school and has not completed the child's high school
16 education.

17 (e) When a petition is filed under this code, a person who is alleged to
18 be under 18 years of age shall be presumed to be under that age for the
19 purposes of this code, unless the contrary is proved.

20 (f) A court's order issued in a proceeding pursuant to this code shall
21 take precedence over such orders in a civil custody case, a proceeding
22 under article 31 of chapter 60 of the Kansas Statutes Annotated, and
23 amendments thereto, protection from abuse act, or a comparable case in
24 another jurisdiction, except as provided by the uniform child custody
25 jurisdiction and enforcement act, K.S.A. 23-37,101 through 23-37,405,
26 and amendments thereto.

27 New Sec. 25. (a) Venue of any case involving a child in need of care
28 shall be in the county of the child's residence or in the county where the
29 child is found.

30 (b) Upon application of any party or interested party and after notice
31 to all other parties and interested parties, the court in which the petition
32 was originally filed alleging that a child is a child in need of care may
33 order the proceedings transferred to the court of the county where: (1) The
34 child is physically present; (2) the parent or parents reside; or (3) other
35 proceedings are pending in this state concerning custody of the child. The
36 judge of the court in which the case is pending shall consult with the judge
37 of the proposed receiving court prior to transfer of the case. If the judges
38 do not agree that the case should be transferred or if a hearing is requested,
39 a hearing shall be held on the desirability of the transfer, with notice given
40 to parties or interested parties, the secretary and the proposed receiving
41 court. If the judge of the transferring court orders the case transferred, the
42 order of transfer shall include findings stating why the case is being
43 transferred and, if available, the names and addresses of all interested

1 parties to whom the receiving court should provide notice of any further
2 proceedings. The receiving court shall accept the case. Upon a judge
3 ordering a transfer of venue, the clerk shall transmit the contents of the
4 official file and a complete copy of the social file to the court to which
5 venue is transferred, and, upon receipt of the record, the receiving court
6 shall assume jurisdiction as if the proceedings were originally filed in that
7 court. The transferring judge, if an adjudicatory hearing has been held,
8 shall also transmit recommendations as to disposition. The court may
9 return the case to the court where it originated if the child is not present in
10 the receiving county or the receiving county is not the residence of the
11 child's parent or parents.

12 New Sec. 26. At any hearing under this code, the court, if requested
13 by the child, shall allow the child to address the court, if the child is 10
14 years of age or older.

15 New Sec. 27. (a) *Persons making reports.* (1) When any of the
16 following persons has witnessed or has evidence of a child that has been
17 harmed as a result of physical abuse or sexual abuse, the person shall
18 report the matter promptly to law enforcement.

19 (A) The following persons providing medical care or treatment:
20 Persons licensed to practice the healing arts, dentistry and optometry,
21 persons engaged in postgraduate training programs approved by the state
22 board of healing arts, licensed professional or practical nurses and chief
23 administrative officers of medical care facilities;

24 (B) the following persons licensed by the state to provide mental
25 health services: Licensed psychologists, licensed masters level
26 psychologists, licensed clinical psychotherapists, licensed social workers,
27 licensed marriage and family therapists, licensed clinical marriage and
28 family therapists, licensed professional counselors, licensed clinical
29 professional counselors, licensed addiction counselors and licensed
30 clinical addiction counselors;

31 (C) teachers, school administrators or other employees of an
32 educational institution where the child is attending and persons licensed by
33 the secretary of health and environment to provide child care services or
34 the employees of persons so licensed at the place where the child care
35 services are being provided to the child;

36 (D) firefighters, emergency medical services personnel, law
37 enforcement officers, juvenile intake and assessment workers, court
38 services officers, community corrections officers, and mediators appointed
39 under K.S.A. 2013 Supp. 23-3502, and amendments thereto; and

40 (E) any person employed by or who works as a volunteer for any
41 organization, whether for profit or not-for-profit, that provides social
42 services to pregnant teenagers, including, but not limited to, counseling,
43 adoption services and pregnancy education and maintenance.

1 (2) In addition to the reports required under subsection (a)(1), any
2 person who has reason to suspect that a child may be a child in need of
3 care may report the matter as provided in subsection (b) and (c).

4 (b) *Form of report.* (1) The report may be made orally and shall be
5 followed by a written report. Anonymous calls shall not be accepted.
6 Every report shall contain, if known: The names and addresses of the child
7 and the child's parents or other persons responsible for the child's care; the
8 location of the child if not at the child's residence; the child's gender, race
9 and age; the evidence demonstrating that the child may be a child in need
10 of care; if abuse or neglect or sexual abuse is witnessed or evidenced, the
11 nature and extent of the harm to the child, including any evidence of
12 previous harm; and any other information that the reporter believes might
13 be helpful in establishing the cause of the harm and the identity of the
14 persons responsible for the harm.

15 (2) When reporting that a child may be in need of care, the reporter
16 shall disclose protected health information freely and cooperate fully with
17 the secretary and law enforcement throughout the investigation and any
18 subsequent legal process. Any hotline shall have a protocol of questions to
19 be asked of callers to determine if the case rises to a level requiring an
20 investigation. Such protocol questions shall be determined, selected and
21 adopted through the Kansas children's cabinet.

22 (c) *To whom made.* Reports of neglect will be made pursuant to this
23 section to the secretary, except as follows:

24 (1) When the Kansas department for children and families is not open
25 for business, reports of neglect shall be made to the appropriate law
26 enforcement agency. On the next day that the department is open for
27 business, the law enforcement agency shall submit all reports received to
28 the department in writing.

29 (2) Reports of child abuse or neglect occurring in an institution
30 operated by the secretary for children and families or secretary of
31 corrections shall be made to the attorney general. All other reports of child
32 abuse or neglect by persons employed by or by children of persons
33 employed by the Kansas department for children and families shall be
34 made to the appropriate law enforcement agency.

35 (d) *Death of child.* Any person who is required by this section to
36 report that a child is in need of care and who knows of information relating
37 to the death of a child shall immediately notify the coroner as provided by
38 K.S.A. 22a-242, and amendments thereto.

39 (e) *Violations.* (1)(A) Knowingly making a false report or a report
40 that lacks factual foundation pursuant to this section is a class B nonperson
41 misdemeanor.

42 (B) If the investigation shows the complaint was not made in good
43 faith, the department shall charge the cost of the investigation to the

1 complainant.

2 (2) Intentionally preventing or interfering with the making of a report
3 required by this section is a class B nonperson misdemeanor.

4 (3) Notwithstanding any other provision of law, no immunity shall be
5 granted to any person representing the interests of a child, including
6 persons employed within the judicial branch of state government.

7 New Sec. 28. (a) *Investigation for child abuse or neglect.* (1) Law
8 enforcement officers shall have the duty to receive and investigate reports
9 of child abuse or neglect for the purpose of determining whether the report
10 is valid and whether action is required to protect a child.

11 (2) The secretary shall have the duty to receive and investigate
12 reports of neglect for the purpose of determining whether the report is
13 valid and whether action is required to protect a child.

14 (3) Child abuse is a crime and shall be investigated with due diligence
15 by trained law enforcement. Any person or agency which maintains
16 records relating to the involved child which are relevant to any
17 investigation conducted by the secretary or a law enforcement agency shall
18 provide the secretary or law enforcement agency with the necessary
19 records to assist in such investigation. In order to provide such records, the
20 person or agency maintaining the records shall receive from the secretary
21 or law enforcement: (A) A written request for information; and (B) a
22 written notice that the investigation is being conducted by the secretary for
23 services needed or by law enforcement. The secretary or law enforcement
24 agency shall forward reports of child abuse and neglect to the district or
25 county attorney, as appropriate.

26 (b) *Investigation of certain cases.* Child abuse or neglect which
27 occurs in an institution operated by the secretary shall be investigated by
28 the attorney general. Any other child abuse or neglect by persons
29 employed by the Kansas department for children and families shall be
30 investigated by the appropriate law enforcement agency.

31 (c) *Investigations concerning certain facilities.* Any investigation
32 involving a facility subject to licensing or regulation by the secretary of
33 health and environment shall be promptly reported to the attorney general.

34 (d) *Cooperation between school personnel and investigative*
35 *agencies.* (1) Educational institutions and law enforcement agencies shall
36 cooperate with each other in the investigation of reports of child abuse.
37 Law enforcement agencies shall have access to a child in a setting
38 designated by school personnel on the premises of an educational
39 institution. Attendance at an interview conducted on such premises shall be
40 at the discretion of the agency conducting the interview, giving
41 consideration to the least detrimental alternative for the child. To the extent
42 that safety and practical considerations allow, law enforcement officers on
43 such premises for the purpose of investigating a report of child abuse shall

1 not be in uniform.

2 (2) A law enforcement officer shall request the presence of school
3 personnel during an interview if the officer determines that the presence of
4 such school personnel may provide comfort to the child or facilitate the
5 investigation.

6 (e) All interviews in child abuse or neglect cases shall be, at a
7 minimum, audio taped and made available to the parents or parties.

8 (f) The secretary, secretary's designee or law enforcement officer, as
9 appropriate, shall, at the initial time of contact with the individual subject
10 to an abuse or neglect investigation, advise the individual, in writing, of
11 the specific actions or inactions of the individual that have been reported
12 as allegations of abuse or neglect, without disclosing the identity of the
13 reporter and advise the individual of their right to seek legal counsel.

14 (g) All employees of the Kansas department for children and families
15 shall be trained in their legal duties to protect the constitutional and
16 statutory rights of children and families, from the initial point of contact,
17 during investigation and through treatment. The training curriculum shall
18 include instruction in the first amendment rights of association or free
19 exercise and that the fifth amendment guarantees more than fair process.
20 This clause also includes a substantive component that provides
21 heightened protection against government interference with certain
22 fundamental rights and liberty interest, the ninth amendment which states
23 that the enumeration of rights shall not be construed to deny or disparage,
24 and the fourteenth amendment's due process clause which states that
25 heightened protection against government interference with certain
26 fundamental rights and liberty interest does include the parents'
27 fundamental right, and also provides that no state shall deprive any person
28 of life liberty, or property, without due process of the law. At the initial
29 point of contact with a parent or legal guardian, all Kansas department for
30 children and families employees shall advise the parents of the allegations
31 against them with a signed document and provide a guide with these rights
32 explained for such parent or legal guardian.

33 (h) If no evidence exists for an initial neglect complaint, the
34 investigation shall cease unless the department has physical proof that
35 other forms of abuse or neglect exist. The fact that a child is home-
36 schooled is not a valid reason for instituting an investigation of abuse or
37 neglect. If an investigation reveals no evidence of neglect, the secretary
38 shall issue a formal letter to the complainant stating that the investigation
39 has ceased, no evidence of neglect has been found and the report is
40 closed. Upon closure of a neglect report, the secretary shall not forward
41 the report to the district or county attorney. In addition, such records shall
42 be destroyed within 30 days.

43 New Sec. 29. The court on its own motion or upon request may, at

1 any time, appoint a multidisciplinary team to assist in gathering
2 information regarding a child who may be or is a child in need of care. The
3 team may be a standing multidisciplinary team or may be appointed for a
4 specific child. Any person appointed as a member of a multidisciplinary
5 team may decline to serve and shall incur no civil liability as the result of
6 declining to serve.

7 New Sec. 30. Whenever any person furnishes information to the
8 secretary that a child appears to be a child in need of care, the department
9 shall make a preliminary inquiry to determine whether the safety of the
10 child requires that further action be taken. Whenever practicable, the
11 inquiry shall include a preliminary investigation, including testimony of
12 witnesses and the parties of the circumstances which were the subject of
13 the information, including the home and environmental situation and the
14 previous history of the child. If clear and convincing evidence of neglect
15 exists, steps shall be taken to protect the health and welfare of the
16 neglected child, as well as that of any other child under the same care who
17 may be harmed by the neglect. After the inquiry, if the secretary
18 determines it is not otherwise possible to provide those services necessary
19 to protect the interests of the child, the secretary shall recommend to the
20 county or district attorney that a petition be filed.

21 New Sec. 31. (a) In addition to all actions concerning a child in need
22 of care commenced on or after January 1, 2015, this code also applies to
23 proceedings commenced before January 1, 2015, unless the court finds
24 that application of a particular provision of the code would substantially
25 interfere with the effective conduct of judicial proceedings or prejudice the
26 rights of a party or an interested party, in which case the particular
27 provision of this code does not apply and the previous code applies.

28 (b) If a right is acquired, extinguished or barred upon the expiration
29 of a prescribed period that has commenced to run under any other statute
30 before January 1, 2007, that statute continues to apply to the right, even if
31 it has been repealed or superceded.

32 New Sec. 32. It shall be the duty of the county or district attorney or
33 the county or district attorney's designee to prepare and file the petition
34 alleging a child to be a child in need of care, according to the information
35 on the affidavits presented to them by a law enforcement agency or the
36 secretary for children and families, and to appear at the hearing on the
37 petition and at all stages of the proceedings to present the necessary
38 evidence as required by law. The county or district attorney or the county
39 or district attorney's designee shall also have the other duties required by
40 this code. Pursuant to a written agreement between the secretary and the
41 county or district attorney, the attorneys for the secretary may perform the
42 duties of the county or district attorney after disposition has been
43 determined by the court.

1 New Sec. 33. (a) A law enforcement officer or court services officer
2 shall take a child under 18 years of age into custody when:

3 (1) The law enforcement officer or court services officer has a court
4 order commanding that the child be taken into custody as a child in need
5 of care; or

6 (2) the law enforcement officer or court services officer has clear and
7 convincing evidence that a court order commanding that the child be taken
8 into custody as a child in need of care has been issued in this state or in
9 another jurisdiction.

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

12 (1) The law enforcement officer has evidence that the child will be
13 harmed if not immediately removed from the place or residence where the
14 child has been found; or

15 (2) the officer has evidence to believe that the child is a missing
16 person and a verified missing person entry for the child can be found in the
17 national crime information center missing person system.

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

21 (2) If a person reports a runaway's location to a law enforcement
22 agency pursuant to this section and a law enforcement officer of the
23 agency has reasonable grounds to believe that it is the least detrimental
24 alternative for the child, the child may be allowed to remain in the place
25 where shelter is being provided, subject to subsection (b), in the absence of
26 a court order to the contrary. If the child is allowed to so remain, the law
27 enforcement agency shall promptly notify the secretary of the child's
28 location and circumstances.

29 (d) Except as provided in subsections (a) and (b), a law enforcement
30 officer may temporarily detain and assume temporary custody of any child
31 subject to compulsory school attendance, pursuant to K.S.A. 72-1111, and
32 amendments thereto, during the hours school is actually in session and
33 shall deliver the child pursuant to subsection (g) of section 34, and
34 amendments thereto.

35 New Sec. 34. (a) (1) To the extent possible, when any law
36 enforcement officer takes into custody a child under the age of 18 years
37 without a court order, the child shall be delivered to the custody of the
38 child's parent or other custodian unless there are reasonable grounds to
39 believe that such action would not be the least detrimental alternative for
40 the child.

41 (2) Except as provided in subsection (b), if the child is not delivered
42 to the custody of the child's parent or other custodian, the child shall be
43 delivered to a shelter facility designated by the court, court services

1 officer, juvenile intake and assessment worker, licensed attendant care
2 center or other person or, if the child is 15 years of age or younger, or 16
3 or 17 years of age if the child has no identifiable parental or family
4 resources or shows signs of physical, mental, or sexual abuse, to a facility
5 or person designated by the secretary.

6 (3) No child taken into custody pursuant to this code shall be placed
7 in a juvenile detention facility or other secure facility, except as authorized
8 by this section and by sections 90 and 91, and amendments thereto.

9 (4) It shall be the duty of the law enforcement officer to furnish to the
10 county or district attorney, without unnecessary delay, all the information
11 in the possession of the officer pertaining to the child in writing, the child's
12 parents or other persons interested in or likely to be interested in the child
13 and all other facts and circumstances which caused the child to be taken
14 into custody.

15 (b) When any law enforcement officer takes into custody any child as
16 provided in subsection (b)(2) of section 33, and amendments thereto,
17 proceedings shall be initiated in accordance with the provisions of the
18 interstate compact on juveniles, when effective. Any child taken into
19 custody pursuant to the interstate compact on juveniles may be detained in
20 a juvenile detention facility or other secure facility.

21 (c) Whenever a child under the age of 18 years is taken into custody
22 by a law enforcement officer without a court order and is thereafter placed
23 as authorized by subsection (a), the facility or person shall, upon written
24 application of the law enforcement officer, have physical custody and
25 provide care and supervision for the child. The application shall state:

26 (1) The name and address of the child, if known;

27 (2) the names and addresses of the child's parents or nearest relatives
28 and persons with whom the child has been residing, if known; and

29 (3) the officer's belief that the child is a child in need of care and that
30 there is clear and convincing evidence to believe that the circumstances or
31 condition of the child is such that the child would be harmed unless placed
32 in the immediate custody of the shelter facility or other person.

33 (d) A copy of the application shall be furnished by the facility or
34 person receiving the child to the county or district attorney without
35 unnecessary delay.

36 (e) The shelter facility or other person designated by the court who
37 has custody of the child pursuant to this section shall discharge the child
38 not later than 72 hours following admission, including Saturdays, Sundays,
39 legal holidays, and days on which the office of the clerk of the court is not
40 accessible, unless a court has entered an order pertaining to temporary
41 custody or release.

42 (f) In the absence of a court order to the contrary, the county or
43 district attorney or the placing law enforcement agency shall have the

1 authority to direct the release of the child at any time within the 72 hours.

2 (g) When any law enforcement officer takes into custody any child as
3 provided in subsection (d) of section 33, and amendments thereto, the
4 child shall be delivered to the school in which the child is enrolled, any
5 location designated by the school in which the child is enrolled or the
6 child's parent or other custodian.

7 New Sec. 35. (a) *Appointment of guardian ad litem and attorney for*
8 *child; duties.* Upon the filing of a petition, the court shall immediately
9 appoint a qualified layman to serve as guardian ad litem for a child who is
10 the subject of proceedings under this code. The guardian ad litem shall
11 make an independent investigation of the facts upon which the petition is
12 based and shall appear for, advocate and represent the least detrimental
13 alternative for the child. When the child's position is not consistent with
14 the determination of the guardian ad litem as to the child's least
15 detrimental alternative, the guardian ad litem shall inform the court of the
16 disagreement. At such time, the court shall remove the guardian ad litem
17 and appoint a new guardian ad litem. The guardian ad litem or the child
18 may request the court to appoint an attorney to serve the child, and the
19 court, on good cause shown, shall appoint such attorney. The attorney for
20 the child shall allow the child and the guardian ad litem to communicate
21 with one another but may require such communications to occur in the
22 attorney's presence.

23 (b) *Attorney for parent or custodian.* A parent of a child alleged or
24 adjudged to be a child in need of care shall be represented by an attorney,
25 in connection with all proceedings under this code. At the first hearing in
26 connection with proceedings under this code, the court shall distribute a
27 pamphlet, designed by the court, to the parents of a child alleged or
28 adjudged to be a child in need of care, to advise the parents of their rights
29 in connection with all proceedings under this code.

30 (1) If at any stage of the proceedings a parent desires but is
31 financially unable to employ an attorney, the court shall immediately
32 appoint an attorney for the parent. It shall not be necessary to appoint an
33 attorney to represent a parent who fails or refuses to attend the hearing
34 after having been properly served with process in accordance with section
35 87, and amendments thereto. A parent or custodian who is not a minor, a
36 mentally ill person or a disabled person may waive counsel either in
37 writing or on the record.

38 (2) The court shall immediately appoint an attorney for a parent who
39 is a minor, a mentally ill person or a disabled person, unless the court
40 determines that there is an attorney retained who will appear and represent
41 the interests of the person in the proceedings under this code.

42 (3) As used in this subsection: (A) "Mentally ill person" shall have
43 the meaning ascribed thereto in K.S.A. 59-2946, and amendments thereto;

1 and (B) "disabled person" shall have the meaning ascribed thereto in
2 K.S.A. 77-201, and amendments thereto.

3 (c) *Attorney for interested parties.* A person who, pursuant to section
4 43, and amendments thereto, is an interested party in a proceeding
5 involving a child alleged to be a child in need of care may be represented
6 by an attorney in connection with all proceedings under this code. It shall
7 be necessary to appoint an attorney to represent an interested party who
8 fails or refuses to attend the hearing after having been properly served with
9 process in accordance with section 87, and amendments thereto. If, at any
10 stage of the proceedings, a person who is an interested party under
11 subsection (d) of section 43, and amendments thereto, desires but is
12 financially unable to employ an attorney, the court shall appoint an
13 attorney for the interested party.

14 (d) *Continuation of or discharge from representation.* A guardian ad
15 litem appointed to represent the least detrimental alternative for a child, or
16 an attorney appointed for a child as provided in subsection (a), or an
17 attorney appointed for a parent or custodian shall continue to represent the
18 client at all subsequent hearings in proceedings under this code, including
19 any appellate proceedings, unless relieved by the court upon a showing of
20 good cause or upon transfer of venue.

21 (e) *Guardian ad litem report.* In a permanent custody proceeding in
22 which the guardian ad litem's report will be a factor in the trial court's
23 decision, parties to the proceeding have the right to cross-examine the
24 guardian ad litem concerning the contents of the report and the basis for a
25 custody recommendation. Such guardian ad litem will be subject to cross
26 examination, written affidavits and to the validity or accuracy of any
27 testimony. If the guardian ad litem fails to properly discharge their duties,
28 the court shall preclude any testimony in the subject matter before the
29 court. Any violation of law, failure to perform duties according to or as
30 required by law shall subject a guardian ad litem to disciplinary action,
31 such as civil penalties, suspension of the license to practice law in this
32 state and prohibition of appointment as guardian ad litem in any
33 subsequent proceedings.

34 (f) *Fees for counsel.* An attorney appointed pursuant to this section
35 shall be allowed a reasonable fee for services, which may be assessed as
36 an expense in the proceedings as provided in section 79, and amendments
37 thereto.

38 New Sec. 36. (a) The court at any stage of a proceeding pursuant to
39 this code may appoint a special advocate for the child, who shall serve
40 until discharged by the court and whose primary duties shall be to
41 advocate the least detrimental alternative for the child and to assist the
42 child in obtaining a permanent, safe and homelike placement. The court-
43 appointed special advocate shall have such qualifications and perform such

1 specific duties and responsibilities as prescribed by law.

2 (b) Any person participating in a judicial proceeding as a court-
3 appointed special advocate shall be presumed prima facie to be acting in
4 good faith.

5 New Sec. 37. (a) Either in the original petition filed under this code
6 or in a motion made in an existing proceeding under this code, the district
7 or county attorney may request that either or both parents be found unfit
8 and the parental rights of either or both parents be terminated or a
9 permanent custodian be appointed.

10 (b) Whenever a pleading is filed requesting termination of parental
11 rights or appointment of a permanent custodian, the pleading shall contain
12 a statement of specific facts which are factually based evidence to support
13 the request, including dates, times and locations to the extent known.

14 (c) In any case in which a parent of a child cannot be located by the
15 exercise of due diligence, service by publication notice shall be ordered
16 upon the parent.

17 New Sec. 38. (a) Upon receiving a petition or motion requesting
18 termination of parental rights or appointment of permanent custodian, the
19 court shall set the time and place for the trial, which shall be held within
20 60 days. A continuance shall be granted only if the court finds it is the least
21 detrimental alternative for the child. A motion requesting termination of
22 parental rights shall be heard in front of a district court judge. A jury shall
23 be summoned to consider the termination of parental rights or appointment
24 of a custodian if requested by any party.

25 (b) (1) The court shall give notice of the trial date:

26 (A) To the parties and interested parties;

27 (B) to all the child's grandparents at their last known addresses or, if
28 no grandparent is living or if no living grandparent's address is known, to
29 the closest relative of each of the child's parents whose address is known;

30 (C) in any case in which a parent of a child cannot be located by the
31 exercise of due diligence, to the parent's nearest relative who can be
32 located, if any; and

33 (D) to the foster parents, pre-adoptive parents or relatives providing
34 care.

35 (2) This notice shall be given by return receipt delivery not less than
36 10 business days before the hearing. Individuals receiving notice pursuant
37 to this subsection shall not be made a party or interested party to the action
38 solely on the basis of this notice.

39 (3) The provisions of this subsection shall not require additional
40 service to any party or interested party who could not be located by the
41 exercise of due diligence in the initial notice of the filing of a petition for a
42 child in need of care.

43 (c) At the beginning of the hearing the court shall determine that due

1 diligence has been used in determining the identity and location of the
2 persons listed in subsection (b) and in accomplishing service of process.

3 (d) Prior to a hearing on a petition, a motion requesting termination of
4 parental rights or a motion for appointment of a permanent custodian, the
5 court shall appoint an attorney to represent any parent who fails to appear
6 and may award a reasonable fee to the attorney for services. The fee may
7 be assessed as an expense in the proceedings.

8 New Sec. 39. (a) Prior to a hearing to consider the termination of
9 parental rights, if the child's permanency plan is either adoption or
10 appointment of a custodian, with the consent of the guardian ad litem and
11 the secretary, either or both parents may relinquish parental rights to the
12 child, consent to an adoption or consent to appointment of a permanent
13 custodian.

14 (b) *Relinquishment of child to secretary.* (1) Any parent or parents
15 may relinquish a child to the secretary, and if the secretary accepts the
16 relinquishment in writing, the secretary shall stand in loco parentis to the
17 child and shall have and possess over the child all rights of a parent,
18 including the power to place the child for adoption and give consent
19 thereto.

20 (2) All relinquishments to the secretary shall be in writing, in
21 substantial conformity with the form for relinquishment contained in the
22 appendix of forms following K.S.A. 59-2143, and amendments thereto,
23 and shall be executed by either parent of the child.

24 (3) The relinquishment shall be in writing and shall be acknowledged
25 before a judge of a court of record or before an officer authorized by law
26 to take acknowledgments. If the relinquishment is acknowledged before a
27 judge of a court of record, it shall be the duty of the court to advise the
28 relinquishing parent of the consequences of the relinquishment.

29 (4) Except as otherwise provided, in all cases where a parent has
30 relinquished a child to the agency pursuant to K.S.A. 59-2111 through 59-
31 2143, and amendments thereto, all the rights of the parent shall be
32 terminated, including the right to receive notice in a subsequent adoption
33 proceeding involving the child. Upon such relinquishment, all the rights of
34 the parents to such child, including such parent's right to inherit from or
35 through such child, shall cease.

36 (5) If a parent has relinquished a child to the secretary based on a
37 belief that the child's other parent would relinquish the child to the
38 secretary or would be found unfit, and this does not occur, the rights of the
39 parent who has relinquished a child to the secretary shall not be
40 terminated.

41 (6) A parent's relinquishment of a child shall not terminate the right
42 of the child to inherit from or through the parent.

43 (c) *Permanent custody.* (1) A parent may consent to appointment of

1 the secretary or an individual as permanent custodian and if the secretary
2 or individual accepts the consent, the secretary or individual shall stand in
3 loco parentis to the child and shall have and possess over the child all the
4 rights of a legal guardian. When the consent is to the secretary, the
5 secretary shall have the right to place the child in the permanent custody of
6 an individual who is appointed permanent custodian.

7 (2) All consents to appointment of a permanent custodian shall be in
8 writing and shall be executed by either parent of the child.

9 (3) The consent shall be in writing and shall be acknowledged before
10 a judge of a court of record or before an officer authorized by law to take
11 acknowledgments. If the consent is acknowledged before a judge of a
12 court of record, it shall be the duty of the court to advise the consenting
13 parent of the consequences of the consent.

14 (4) If a parent has consented to appointment of a permanent custodian
15 based upon a belief that the child's other parent would so consent or would
16 be found unfit, and this does not occur, the consent shall be null and void.

17 (d) *Adoption.* If the parental rights of one parent have been terminated
18 or that parent has relinquished parental rights to the secretary, the other
19 parent may consent to the adoption of the child by persons approved by the
20 secretary or approved by the court. The consent shall follow the form
21 contained in the appendix of forms following K.S.A. 59-2143, and
22 amendments thereto.

23 New Sec. 40. (a) When a jury or bench trial is used, the evidentiary
24 findings shall be beyond a reasonable doubt that the parent is unfit by
25 reason of conduct or condition which renders the parent unable to care
26 properly for a child and the conduct or condition is unlikely to change in
27 the foreseeable future.

28 (b) In making a determination of unfitness, the jury or court shall
29 consider, but is not limited to, the following, if supported by evidence:

30 (1) Mental illness, mental deficiency or physical disability of the
31 parent, of such duration or nature as to render the parent unable to care for
32 the ongoing physical and mental needs of the child;

33 (2) conduct toward a child of a physically or sexually cruel or abusive
34 nature;

35 (3) the use of intoxicating liquors or narcotic or dangerous drugs of
36 such duration or nature as to render the parent unable to care for the
37 ongoing physical or mental needs of the child;

38 (4) physical abuse or sexual abuse of a child; and

39 (5) conviction of a felony and imprisonment.

40 (c) In addition, when a child is not in the physical custody of a parent,
41 the court shall consider, but is not limited to, the following:

42 (1) Failure to assure care of the child in the parental home when able
43 to do so; and

1 (2) failure to maintain regular visitation, contact or communication
2 with the child or with the custodian of the child. In making the above
3 determination, the jury or court may disregard incidental visitations,
4 contacts, communications or contributions.

5 (d) A finding of unfitness may be made as provided in this section if
6 the jury or court finds that the parents have abandoned the child, or the
7 child was left under such circumstances that the identity of the parents is
8 unknown and cannot be ascertained despite diligent searching, and the
9 parents have not come forward to claim the child within three months after
10 the child is found.

11 (e) If a person is convicted of a felony in which sexual intercourse
12 occurred, or if a juvenile is adjudicated a juvenile offender because of an
13 act which, if committed by an adult, would be a felony in which sexual
14 intercourse occurred, and as a result of the sexual intercourse, a child is
15 conceived, a finding of unfitness may be made.

16 (f) The existence of any one of the above factors standing alone, does
17 not necessarily, establish grounds for termination of parental rights.

18 (g) (1) If the jury or the court makes a finding of unfitness, the court
19 shall consider whether termination of parental rights as requested in the
20 petition or motion is the least detrimental alternative for the child. In
21 making the determination, the court shall give primary consideration to the
22 physical or mental health of the child. If the physical or mental needs of
23 the child would best be served by termination of parental rights, the jury or
24 court shall so order. A termination of parental rights under the code shall
25 not terminate the right of a child to inherit from or through a parent.

26 (2) If the court terminates parental rights, the court may authorize
27 adoption, appointment of a permanent custodian or continued permanency
28 planning.

29 (3) If a jury or the court does not terminate parental rights, the court
30 may authorize appointment of a permanent custodian or continued
31 permanency planning.

32 (h) If a parent is convicted of an offense as provided in subsection (a)
33 (8) of section 41, and amendments thereto, or is adjudicated a juvenile
34 offender because of an act which if committed by an adult would be an
35 offense as provided in subsection (a)(8) of section 41, and amendments
36 thereto, and if the victim was the other parent of a child, the court may
37 disregard such convicted or adjudicated parent's opinions or wishes in
38 regard to the placement of such child.

39 (i) A physical record shall be made of the proceedings.

40 (j) When adoption, proceedings to appoint a permanent custodian or
41 continued permanency planning have been authorized, the person or
42 agency awarded custody of the child shall within 30 days submit a written
43 plan for permanent placement which shall include measurable objectives

1 and time schedules.

2 New Sec. 41. (a) It is presumed in the manner provided in K.S.A. 60-
3 414, and amendments thereto, that a parent is unfit by reason of conduct or
4 condition which renders the parent unable to fully care for a child, if the
5 state establishes, beyond a reasonable doubt, that:

6 (1) A parent has previously been found to be an unfit parent in
7 proceedings under section 37, and amendments thereto, or comparable
8 proceedings under the laws of another jurisdiction;

9 (2) a parent has twice before been convicted of a crime specified in
10 article 34, 35, or 36 of chapter 21 of the Kansas Statutes Annotated, prior
11 to their repeal, or articles 54, 55 or 56 of chapter 21 of the Kansas Statutes
12 Annotated, or K.S.A. 2013 Supp. 21-6104, 21-6325, 21-6326 or 21-6418
13 through 21-6421, and amendments thereto, or comparable offenses under
14 the laws of another jurisdiction, or an attempt or attempts to commit such
15 crimes and the victim was under the age of 18 years;

16 (3) on two or more prior occasions a child in the physical custody of
17 the parent has been adjudicated a child in need of care as defined by
18 subsection (d)(1), (d)(3) or (d)(5) of section 23, and amendments thereto,
19 or comparable proceedings under the laws of another jurisdiction;

20 (4) the parent has been convicted of causing the death of another
21 child or stepchild of the parent;

22 (5) a parent has been convicted of capital murder, K.S.A. 21-3439,
23 prior to its repeal, or K.S.A. 2013 Supp. 21-5401, and amendments
24 thereto, murder in the first degree, K.S.A. 21-3401, prior to its repeal, or
25 K.S.A. 2013 Supp. 21-5402, and amendments thereto, murder in the
26 second degree, K.S.A. 21-3402, prior to its repeal, or K.S.A. 2013 Supp.
27 21-5403, and amendments thereto, or voluntary manslaughter, K.S.A. 21-
28 3403, prior to its repeal, or K.S.A. 2013 Supp. 21-5404, and amendments
29 thereto, or comparable proceedings under the laws of another jurisdiction
30 or, has been adjudicated a juvenile offender because of an act which if
31 committed by an adult would be an offense as provided in this subsection,
32 and the victim of such murder was the other parent of the child;

33 (6) a parent abandoned or neglected the child after having knowledge
34 of the child's birth or either parent has been granted immunity from
35 prosecution for abandonment of the child under subsection (b) of K.S.A.
36 21-3604, prior to its repeal, or subsection (d) of K.S.A. 2013 Supp. 21-
37 5605, and amendments thereto; or

38 (7) a parent has made no reasonable efforts to support or
39 communicate with the child after having knowledge of the child's birth;

40 (8) a parent has been convicted of rape, K.S.A. 21-3502, prior to its
41 repeal, or K.S.A. 2013 Supp. 21-5503, and amendments thereto, or
42 comparable proceedings under the laws of another jurisdiction resulting in
43 the conception of the child; or

1 (9) a parent has failed or refused to assume the duties of a parent for
2 two consecutive years next preceding the filing of the petition.

3 (b) The burden of proof shall be on the state to prove the presumption
4 of unfitness beyond a reasonable doubt. In the absence of that proof that
5 the parent is presently fit and able to care for the child or that the parent
6 will be fit and able to care for the child in the foreseeable future, the court
7 shall terminate parental rights in proceedings pursuant to section 37, and
8 amendments thereto.

9 New Sec. 42. (a) An appeal may be taken by any party or interested
10 party from any order of temporary custody, adjudication, disposition,
11 finding of unfitness or termination of parental rights. Expedited appeal or
12 stay of further proceedings shall be in place.

13 (b) No magistrate judge shall terminate parental rights. Any appeal
14 from an order entered by a district judge shall be de novo. The appeal shall
15 be heard on the basis of the record from 30 days from the date the notice
16 of appeal is filed. If no record was made of the proceedings, the trial shall
17 be de novo.

18 (c) Procedure on appeal shall be governed by article 21 of chapter 60
19 of the Kansas Statutes Annotated, and amendments thereto.

20 (d) Notwithstanding any other provision of law to the contrary,
21 appeals under this section shall have priority over all other cases.

22 (e) Every notice of appeal, docketing statement and brief shall be
23 verified by the appellant if the appellant has been personally served at any
24 time during the proceedings. Failure to have the required verification shall
25 result in the dismissal of the appeal.

26 (f) While a case is on appeal from the district court, the district court
27 shall continue to have jurisdiction over all issues not specifically appealed
28 and shall conduct timely permanency hearings.

29 New Sec. 43. (a) *Jurisdiction of the court.* Parties and interested
30 parties in a child in need of care proceedings are subject to the jurisdiction
31 of the court.

32 (b) *Rights of parties.* Subject to the authority of the court to rule on
33 the admissibility of evidence and provide for the orderly conduct of the
34 proceedings, the rights of parties to participate in a child in need of care
35 proceeding include, but are not limited to:

36 (1) Notice in accordance with sections 86 and 89, and amendments
37 thereto;

38 (2) presentation of oral or written evidence and argument;

39 (3) the ability to call and cross-examine witnesses; and

40 (4) representation by an attorney in accordance with section 35, and
41 amendments thereto.

42 (c) *Grandparents as interested parties.* (1) A grandparent of the child
43 shall be an interested party to a child in need of care proceeding.

1 (2) Grandparents shall have the participatory rights of parties
2 pursuant to subsection (b), except that the court may restrict those rights if
3 the court, through clear convincing evidence, finds that it would be the
4 least detrimental alternative for the child. A grandparent shall not be
5 prevented under this paragraph from attending the proceedings, having
6 access to the child's official file in the court records or making a statement
7 to the court.

8 (d) *Persons with whom the child has been residing as interested*
9 *parties.* (1) Any person with whom the child has resided for a significant
10 period of time within six months of the date the child in need of care
11 petition is filed shall be made an interested party, if such person notifies
12 the court of such person's desire to become an interested party.
13 Notification may be made in writing, orally or by appearance at the initial
14 or a subsequent hearing on the child in need of care petition. Persons with
15 interested party status under this subsection shall have the participatory
16 rights of parties pursuant to subsection (b), except that the court may
17 restrict those rights if the court finds that it would be the least detrimental
18 alternative for the child.

19 (e) *Other interested parties.* (1) Any person with whom the child has
20 resided at any time, who is within the fourth degree of relationship to the
21 child, or to whom the child has close ties may, upon motion, be made an
22 interested party if the court determines that it is the least detrimental
23 alternative for the child.

24 (2) Any other person or Indian tribe seeking to intervene that is not a
25 party may, upon motion, be made an interested party if the court
26 determines that the person or tribe has a sufficient relationship with the
27 child to warrant interested party status or that the person's or tribe's
28 participation would be beneficial to the proceedings.

29 (3) The court may, upon its own motion, make any person an
30 interested party if the court determines that interested party status would
31 be the least detrimental alternative for the child.

32 (f) *Procedure for determining, denying or terminating interested*
33 *party status.* (1) Upon the request of the court, the secretary shall
34 investigate the advisability of granting interested party status under this
35 section and report findings and recommendations to the court.

36 (2) The court may deny or terminate interested party status under this
37 subsection if the court determines, after notice and a hearing, that a person
38 does not qualify for interested party status or that there is good cause to
39 deny or terminate interested party status.

40 (3) A person who is denied interested party status or whose status as
41 an interested party has been terminated may petition for review of the
42 denial or termination by the chief judge of the district in which the court
43 having jurisdiction over the child proceeding is located, or a judge

1 designated by the chief judge. The chief judge or the chief judge's designee
2 shall review the denial or termination within 30 days of receiving the
3 petition. The child proceeding shall not be stayed pending resolution of the
4 petition for review.

5 New Sec. 44. (a) Notwithstanding the provisions of other statutes,
6 when a child is removed from the custody of a parent and not placed with
7 the child's other parent, a grandparent who requests custody shall receive
8 substantial consideration when evaluating what custody, visitation or
9 residency arrangements are the least detrimental alternative for the child.
10 Such evaluation of custody, visitation or residency arrangements shall be
11 stated on the record.

12 (b) In deciding whether to give custody to a grandparent, the court
13 should be guided by the least detrimental alternative of the child and
14 should consider all relevant factors including, but not limited to, the
15 following:

16 (1) The wishes of the parents, child and grandparent;

17 (2) the extent to which the grandparent has cared for, nurtured and
18 supported the child;

19 (3) the intent and circumstances under which the child is placed with
20 the grandparent, including whether domestic violence is a factor and
21 whether the child is placed to allow the parent to seek work or attend
22 school; and

23 (4) the physical and mental health of all individuals involved.

24 (c) If the court does not give custody of a child to a grandparent
25 pursuant to subsection (b) and the child is placed in the custody of the
26 secretary, a grandparent who requests placement of the child in such
27 grandparent's home shall receive substantial consideration in the
28 evaluation of the secretary's placement of the child. The secretary shall
29 consider all relevant factors, including, but not limited to, all factors listed
30 in subsection (b) in deciding whether to place the child in the home of
31 such grandparent. If the secretary provides evidence to support that the
32 child is not to be placed in the home of such grandparent, the secretary
33 shall prepare and maintain a written report providing the specific reasons
34 for such finding.

35 (d) The provisions of this section shall not apply to actions filed
36 under the Kansas adoption and relinquishment act, K.S.A. 59-2111 et seq.,
37 and amendments thereto.

38 New Sec. 45. (a) As used in this section:

39 (1) "Program" means the grandparents as caregivers program.

40 (2) "Secretary" means the secretary for children and families.

41 (3) "Department" means the Kansas department for children and
42 families.

43 (b) Subject to the provisions of appropriation acts, the secretary shall

1 establish a grandparents as caregivers program within the department for
2 children and families. The program shall be administered in a manner
3 which recognizes that:

4 (1) The relationship between a child and a parent differs from the
5 relationship between a child and a grandparent;

6 (2) society and the demands and needs of the members of society
7 change between the time a person raises a child and the time the same
8 person raises a grandchild;

9 (3) caring for a grandchild often places additional financial, social
10 and psychological strain on grandparents with fixed incomes;

11 (4) different parenting skills are necessary when raising a grandchild,
12 and many grandparents do not possess such skills, are not aware of how to
13 obtain such skills and cannot afford access to the services necessary to
14 obtain such skills;

15 (5) grandparents acting as caregivers need a support structure,
16 including counseling for both the grandparent and grandchild, respite care,
17 transportation assistance and child care; and

18 (6) grandparents are often unaware of medical and other assistance,
19 including cash assistance for which they may be eligible.

20 (c) (1) (A) If a person meets the financial eligibility requirements
21 developed by the secretary, a grandparent shall be eligible to participate in
22 the program if such grandparent:

23 (B) Has the grandchild placed in such grandparent's custody by the
24 state, is the legal guardian of the grandchild or has other legal custody of
25 the grandchild; and

26 (C) has an annual household income of less than 130% of the federal
27 poverty level.

28 (2) A grandparent shall not be eligible to participate in the program if
29 the parent or parents of the child reside with such grandparent.

30 (3) The secretary annually shall review the eligibility of grandparents
31 participating in the program. Grandparents shall be required to meet
32 eligibility requirements each year to continue in the program.

33 (d) If there are no grandparents of a child who are willing to
34 participate in the program, the secretary may include in the program any
35 other close relative who becomes the legal guardian of the child or obtains
36 legal custody of the child, as granted by a court of competent jurisdiction
37 or through placement by the secretary. In order to participate, such relative
38 must meet the eligibility requirements of subsection (c). A relative
39 qualifying for the program pursuant to this section shall be considered a
40 grandparent for purposes of this section.

41 (e) By January 1, 2015, and subject to the provisions of appropriation
42 acts, the secretary:

43 (1) Shall reimburse grandparents in the program for the cost of the

1 care of the grandchild in the amount of \$200 per grandchild per month, but
2 not to exceed a total of \$600 per month. Such reimbursements shall not be
3 considered income in determining eligibility for public assistance benefits
4 under other state programs and, to the extent allowed by federal law, under
5 federal programs, with the exception of temporary assistance for needy
6 families which may not be received for those same grandchildren.
7 Grandparents in the program shall continue to receive reimbursement until
8 the child reaches the age of 18, if such child is in full-time attendance at a
9 secondary school, postsecondary educational institution as defined by
10 K.S.A. 74-3201b, and amendments thereto, or an institution as defined by
11 K.S.A. 74-32,163, and amendments thereto, or is in a state accredited job
12 training program. Grandparents annually shall submit to the secretary a
13 sworn statement that the child is living with and receiving support from
14 the grandparents. A child attending a postsecondary educational institution
15 or an institution shall be considered as living with the grandparents. The
16 parent of any child receiving or for which assistance is received through
17 the program shall remain liable for the support of the child as required by
18 law;

19 (2) may provide continuing counseling for the child and grandparent
20 under the program;

21 (3) may provide ancillary or support services including, but not
22 limited to, respite care, child care, clothing allowances, parenting skills
23 training, childhood immunizations and other health screening and
24 transportation assistance. Eligibility for services pursuant to the program
25 shall be based on the same eligibility criteria used for other benefits
26 provided by the department; and

27 (4) may provide a medical card and other medical assistance to each
28 child under the program.

29 (f) The secretary, on or before the first day of the regular legislative
30 session, shall report annually to the legislature:

31 (1) The number of children participating in the program and the
32 breakdown of where these children were placed, with either a grandparent
33 or other close relative;

34 (2) the number of children moved from a foster care placement or
35 other state custody to a grandparent or other close relative;

36 (3) an overview of the moneys spent on the program; and

37 (4) the cost-savings analysis of implementing the program by having
38 the children placed with a grandparent or other close relative instead of
39 being placed in state custody.

40 (g) The secretary shall adopt rules and regulations necessary to
41 implement the provisions of this act.

42 (h) The provisions of the grandparents as caregivers program shall
43 not be construed to create an entitlement for participants in the program.

1 New Sec. 46. It is the policy of this state to identify and encourage
2 the adoption of certain hard-to-place children now living in or likely to be
3 placed in foster homes or institutions, and to secure for such children the
4 benefits and security of permanent homes in which such children can
5 receive continuous parental care, guidance, protection and love, and to
6 reduce the number of such children who must be placed or remain in foster
7 homes or institutions until they become adults. It is further declared to be
8 the policy of this state to secure the right of such children to a stable and
9 permanent family life by insuring that no child need be deprived of such
10 care by a family otherwise qualified to adopt. It is further declared to be
11 the policy of this state to reduce the total cost to the state of foster home
12 and institutional care by means of the program of adoption support
13 authorized under this code.

14 New Sec. 47. The secretary is directed to adopt rules and regulations
15 as may be necessary to assist in the administration of the program of
16 adoption support authorized under this code. The regulations adopted
17 pursuant to this code, and amendments thereto, shall provide for the
18 periodic review of the amount and continued eligibility for such adoption
19 support sufficient to protect the interest of the child, the family and the
20 public, and shall provide for appeal procedures.

21 New Sec. 48. Before a child may become eligible for adoption
22 support under the provisions of this code, it shall be necessary that:

23 (a) The child shall be or have been a child hard to place in adoption
24 due to attitudes of society toward such child's age, racial or ethnic
25 background, mental or physical handicap or membership in a sibling
26 group; and

27 (b) The child shall have resided in a foster home or child-care
28 institution or, in the judgment of the secretary, is both eligible for, and
29 likely to be placed in, either a foster home or institution.

30 New Sec. 49. Adoption support under the provisions of this code
31 shall not continue: (a) Beyond the time that the adopted child reaches 18
32 years of age, unless such adopted person is participating in an educational
33 or training program approved by the secretary, in which case adoption
34 support under the provisions of this code shall continue until such adopted
35 person becomes 19 years of age or until such adopted person ceases
36 participation in an educational or training program approved by the
37 secretary, whichever occurs first; or (b) beyond the time that the adopted
38 child becomes emancipated, dies or otherwise ceases to need support.

39 New Sec. 50. A prospective parent seeking adoption support shall be
40 a person who has the character, judgment, sense of responsibility and
41 disposition which makes such person suitable as an adoptive parent under
42 the provisions of K.S.A. 59-2101 et seq., and who lacks the financial
43 means fully to care for such child. Factors to be considered by the

1 secretary in setting the amount of any payment or payments to be made
2 under this section shall include: The size of the family, including the
3 adoptive child; the usual living expenses of the family; the special needs of
4 any family members; and the family income. Whenever it appears to the
5 secretary that the adoptive parents are no longer in need of adoption
6 support, such support shall be terminated.

7 New Sec. 51. Within the limits of appropriations made for the care of
8 children in foster homes and child-care institutions, the secretary is hereby
9 authorized to make funds available to carry-out the provisions of sections
10 46 through 54, and amendments thereto, and, for such purposes, to
11 contract with any public agency or licensed child placement agency or
12 adoptive parent. The secretary is authorized further to accept funds from
13 other sources, including private and other public funding sources, to carry
14 out the purposes of the provisions of sections 46 through 54, and
15 amendments thereto. Payments may be continuing or lump sum payments
16 of adoptive support. In lieu of or in addition to continuing payments, the
17 secretary may make one or more specific lump sum payments for or on
18 behalf of the child, either to the adoptive parent or directly to other persons
19 to assist in correcting any condition causing such child to be hard to place
20 for adoption.

21 New Sec. 52. In no event shall adoption support under the provisions
22 of sections 46 through 54, and amendments thereto, exceed the usual cost
23 to the department for the monthly cost of care in a foster home, including
24 medical services and other special grants as determined by the secretary.

25 New Sec. 53. Any child placing agency having a child in foster care
26 or institutional care may recommend to the secretary support of the
27 adoption of such child and may include in its recommendation any other
28 information likely to assist the secretary in carrying out the functions
29 vested in the secretary pursuant to the provisions of sections 43 through
30 54, and amendments thereto. Such agency may be retained by the secretary
31 to make the required replacement study or supervision of the prospective
32 adoptive home.

33 New Sec. 54. The district court may waive the court costs and other
34 related costs for any adoptions under the provisions of sections 43 through
35 54, and amendments thereto.

36 New Sec. 55. (a) It is hereby found and declared that: (1) Adoptive
37 families of special needs children who move to other states often have
38 difficulty in obtaining medical services due to reluctance by medical
39 providers to accept Kansas medical cards; (2) as a consequence, adoptive
40 placements for special needs children have been disrupted in the past due
41 to the inability to receive medical services in the state of residence; and (3)
42 the least detrimental alternative for special needs children and their
43 adoptive families who move to other states would be served by assuring a

1 continuation of adoption assistance as long as there is a need and by
2 providing a mechanism through which medical services can be provided in
3 the state of residence.

4 (b) It shall, therefore, be the policy of this state, in adopting the
5 interstate compact on adoption and medical assistance, to cooperate fully
6 with other states in providing for continuing adoption assistance and
7 medical services for special needs children who move.

8 New Sec. 56. The interstate compact on adoption and medical
9 assistance is hereby enacted into law and entered into by this state with
10 any other state or states legally joining therein in the form substantially as
11 follows:

12 INTERSTATE COMPACT ON ADOPTION AND MEDICAL
13 ASSISTANCE

14 The contracting states solemnly agree that:

15 ARTICLE I. FINDINGS

16 The party states find that:

17 (a) In order to obtain adoptive families for children with special
18 needs, prospective adoptive parents must be assured of substantial
19 assistance (usually on a continuing basis) in meeting the high costs of
20 supporting and providing for the special needs and services required by
21 such children.

22 (b) The states have a fundamental interest in promoting adoption for
23 children with special needs because the care, emotional stability and
24 general support and encouragement required by such children to surmount
25 their physical, mental or emotional conditions can be best, and often only,
26 obtained in family homes with a normal parent-child relationship.

27 (c) The states obtain advantages from providing adoption assistance
28 because the customary alternative is for the state to defray the entire cost
29 of meeting all the needs of such children.

30 (d) The special needs involved are for the emotional support, physical
31 maintenance of the child, and medical support and services.

32 (e) The necessary assurances of adoption assistance for children with
33 special needs, in those instances where children and adoptive parents are
34 in states other than the one undertaking to provide the assistance, is to
35 establish and maintain suitable substantive guarantees and workable
36 procedures for interstate payments to assist with the necessary child
37 maintenance, procurement of services and medical assistance.

38 ARTICLE II. PURPOSES

39 The purposes of this compact are to:

40 (a) Strengthen protections for the interests of the children with special
41 needs on behalf of whom adoption assistance is committed to be paid,
42 when such children are in or move to states other than the one committed
43 to make adoption assistance payments.

1 (b) Provide substantive assurances and procedures which will
2 promote the delivery of medical and other services on an interstate basis to
3 children through programs of adoption assistance established by the laws
4 of the party states.

5 ARTICLE III. DEFINITIONS

6 As used in this compact, unless the context clearly requires a different
7 construction:

8 (a) "Child with special needs" means a minor who has not yet
9 attained the age at which the state normally discontinues children's
10 services or 21, where the state determines that the child's mental or
11 physical handicaps warrant the continuation of assistance, for whom the
12 state has determined the following:

13 (1) That the child cannot or should not be returned to the home of
14 such child's parents;

15 (2) that there exists with respect to the child a specific factor or
16 condition (such as ethnic background, age or membership in a minority or
17 sibling group, or the presence of factors such as medical condition or
18 physical, mental or emotional handicaps) because of which it is reasonable
19 to conclude that such child cannot be placed with adoptive parents without
20 providing adoption assistance;

21 (3) that, except where it would be against the best interests of the
22 child because of such factors as the existence of significant emotional ties
23 with prospective adoptive parents while in the care of such parents as a
24 foster child, a reasonable, but unsuccessful, effort has been made to place
25 the child with appropriate adoptive parents without providing adoption
26 assistance payments.

27 (b) "Adoption assistance" means the payment or payments for
28 maintenance of a child, which payment or payments are made or
29 committed to be made pursuant to the adoption assistance program
30 established by the laws of a party state.

31 (c) "State" means a state of the United States, the District of
32 Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam,
33 the Commonwealth of the Northern Mariana Islands or a territory or
34 possession of the United States.

35 (d) "Adoption assistance state" means the state that is signatory to an
36 adoption assistance agreement in a particular case.

37 (e) "Residence state" means the state of which the child is a resident
38 by virtue of the residence of the adoptive parents.

39 (f) "Parents" means the singular or plural of the word "parent."

40 ARTICLE IV. ADOPTION ASSISTANCE

41 (a) Each state shall determine the amounts of adoption assistance and
42 other aid which it will give to children with special needs and their
43 adoptive parents in accordance with its own laws and programs. The

1 adoption assistance and other aid may be made subject to periodic
2 reevaluation of eligibility by the adoption assistance state in accordance
3 with its laws. The provisions of this article and of article V are subject to
4 the limitation set forth in this paragraph.

5 (b) The adoption assistance and medical assistance services and
6 benefits to which this compact applies are those provided to children with
7 special needs and their adoptive parents from the time of the final decree
8 of adoption or the interlocutory decree of adoption, as the case may be,
9 pursuant to the laws of the adoption assistance state. In addition to the
10 content required by subsequent provisions of this article for adoption
11 assistance agreements, each such agreement shall state whether the initial
12 adoption assistance period thereunder begins with the final or interlocutory
13 decree of adoption. Aid provided by party states to children with special
14 needs during the preadoptive placement period or earlier shall be under the
15 foster care or other programs of the states and, except as provided in
16 paragraph (c) of this article, shall not be governed by the provisions of this
17 compact.

18 (c) Every case of adoption assistance shall include an adoption
19 assistance agreement between the adoptive parents and the agency of the
20 state undertaking to provide the adoption assistance. Every such agreement
21 shall contain provisions for the fixing of actual or potential interstate
22 aspects of the adoption assistance, as follows:

23 (1) An express commitment that the adoption assistance shall be
24 payable without regard for the state of residence of the adoptive parents,
25 both at the outset of the agreement period and at all times during its
26 continuance.

27 (2) A provision setting forth with particularity the types of child care
28 and services toward which the adoption assistance state will make
29 payments.

30 (3) A commitment to make medical assistance available to the child
31 in accordance with article V of this compact.

32 (4) An express declaration that the agreement is for the benefit of the
33 child, the adoptive parents and the state and that it is enforceable by any or
34 all of them.

35 (d) Any services or benefits provided by the residence state and the
36 adoption assistance state for a child may be facilitated by the party states
37 on each other's behalf. To this end, the personnel of the child welfare
38 agencies of the party states will assist each other and beneficiaries of
39 adoption assistance agreements with other party states in implementing
40 benefits expressly included in adoption assistance agreements. However, it
41 is recognized and agreed that in general children to whom adoption
42 assistance agreements apply are eligible for benefits under the child
43 welfare, education, rehabilitation, mental health and other programs of

1 their state of residence on the same basis as other resident children.

2 (e) Adoption assistance payments, when made on behalf of a child in
3 another state, shall be made on the same basis and in the same amounts as
4 they would be made if the child were in the state making the payments.

5 ARTICLE V. MEDICAL ASSISTANCE

6 (a) Children for whom a party state is committed in accordance with
7 the terms of an adoption assistance agreement to make adoption assistance
8 payments are eligible for medical assistance during the entire period for
9 which such payments are to be provided. Upon application therefor, the
10 adoptive parents of a child on whose behalf a party state's duly constituted
11 authorities have entered into an adoption assistance agreement, the
12 adoptive parents shall receive a medical assistance identification made out
13 in the child's name. The identification shall be issued by the medical
14 assistance program of the residence state and shall entitle the child to the
15 same benefits, pursuant to the same procedures, as any other child who is a
16 resident of the state and covered by medical assistance, whether or not the
17 adoptive parents are eligible for medical assistance.

18 (b) The identification shall bear no indication that an adoption
19 assistance agreement with another state is the basis for issuance. However,
20 if the identification is issued on account of an outstanding adoption
21 assistance agreement to which another state is a signatory, the records of
22 the issuing state and the adoption assistance state shall show the fact, shall
23 contain a copy of the adoption assistance agreement and any amendment
24 or replacement therefor, and all other pertinent information. The adoption
25 assistance and medical assistance programs of the adoption assistance state
26 shall be notified of the identification issuance.

27 (c) A state which has issued a medical assistance identification
28 pursuant to this compact, which identification is valid and currently in
29 force, shall accept, process and pay medical assistance claims thereon as
30 on any other medical assistance eligibilities of residents.

31 (d) An adoption assistance state which provides medical services or
32 benefits to children covered by its adoption assistance agreements, which
33 services or benefits are not provided for those children under the medical
34 assistance program of the residence state, may enter into cooperative
35 arrangements with the residence state to facilitate the delivery and
36 administration of such services and benefits. However, any such
37 arrangements shall not be inconsistent with this compact nor shall they
38 relieve the residence state of any obligation to provide medical assistance
39 in accordance with its laws and this compact.

40 (e) A child whose residence is changed from one party to another
41 party state shall be eligible for medical assistance under the medical
42 assistance program of the new state of residence.

43 ARTICLE VI. JOINDER AND WITHDRAWAL

1 (a) This compact shall be open to joinder by any state. It shall enter
2 into force as to a state when its duly constituted and empowered authority
3 has executed it.

4 (b) In order that the provisions of this compact may be accessible to
5 and known by the general public and so that its status as law in each of the
6 party states may be fully implemented, the full text of the compact,
7 together with a notice of its execution, shall be caused to be published by
8 the authority which has executed it in each party state. Copies of the
9 compact shall be made available upon request made of the executing
10 authority in any state.

11 (c) Withdrawal from this compact shall be by written notice sent by
12 the authority which executed it to the appropriate officials of all other
13 party states, but no such notice shall take effect until one year after it is
14 given in accordance with the requirements of this paragraph.

15 (d) All adoption assistance agreements outstanding and to which a
16 party state is signatory at the time when its withdrawal from this compact
17 takes effect shall continue to have the effects given to them pursuant to this
18 compact, until they expire or are terminated in accordance with their
19 provisions. Until such expiration or termination, all beneficiaries of the
20 agreements involved shall continue to have all rights and obligations
21 conferred or imposed by this compact and the withdrawing state shall
22 continue to administer the compact to the extent necessary to accord and
23 implement fully the rights and protections preserved hereby.

24 New Sec. 57. Pursuant to the compact, the governor may designate an
25 officer who shall be the compact administrator and who, acting jointly
26 with similar officers of other party states, shall adopt rules and regulations
27 to carry out more effectively the terms of the compact. The compact
28 administrator shall serve subject to the pleasure of the governor. The
29 compact administrator shall cooperate with all departments, agencies and
30 officers of this state and its subdivisions in facilitating the proper
31 administration of the compact or of any supplementary agreement or
32 agreements entered into by this state hereunder.

33 New Sec. 58. The compact administrator may enter into
34 supplementary agreements with appropriate officials of other states
35 pursuant to the compact. If a supplementary agreement requires or
36 contemplates the use of any institution or facility of this state or requires or
37 contemplates the provision of any service by this state, the supplementary
38 agreement shall have no force or effect until approved by the head of the
39 department or agency under whose jurisdiction the institution or facility is
40 operated or whose department or agency will be charged with the
41 rendering of the service.

42 New Sec. 59. The compact administrator, subject to the approval of
43 the director of accounts and reports, may make or arrange for any

1 payments necessary to discharge any financial obligations imposed upon
2 this state by the compact or by any supplementary agreement entered into
3 under the compact.

4 New Sec. 60. The courts, departments, agencies and officers of this
5 state and its subdivisions shall enforce this compact and shall do all things
6 appropriate to the effectuation of its purposes and intent which may be
7 within their respective jurisdictions.

8 New Sec. 61. (a) It is hereby found and declared: (1) That finding
9 suitable homes for children who have lost or never had them shall require
10 the full attention of the state of Kansas; (2) that the needs of children and
11 of adults cannot be met by child placement services and supervision by the
12 state of Kansas; and (3) a variety of circumstances makes interstate
13 placements of children essential and offers compelling reasons for an
14 interstate compact under which the jurisdictional, administrative and
15 human rights and obligations involved can be protected.

16 (b) It shall therefore be the policy of this state, in adopting the
17 interstate compact on the placement of children, to cooperate fully with
18 other states in providing that no children shall be sent or brought into any
19 other party state for placement in foster care or as a preliminary to a
20 possible adoption unless the sending agency shall comply with each and
21 every requirement set forth in this interstate compact.

22 New Sec. 62. The interstate compact on the placement of children is
23 hereby enacted into law and entered into with any other state or states
24 legally joining therein in the form substantially as follows:

25 INTERSTATE COMPACT ON THE PLACEMENT OF CHILDREN

26 The contracting states solemnly agree that:

27 ARTICLE I. *Purpose and Policy*

28 It is the purpose and policy of the party states to cooperate with each
29 other in the interstate placement of children to the end that:

30 (a) Each child requiring placement shall receive the maximum
31 opportunity to be placed in a suitable environment and with persons or
32 institutions having appropriate qualifications and facilities to provide a
33 necessary and desirable degree and type of care.

34 (b) The appropriate authorities in a state where a child is to be placed
35 may have full opportunity to ascertain the circumstances of the proposed
36 placement, thereby promoting full compliance with applicable
37 requirements for the protection of the child.

38 (c) The proper authorities of the state from which the placement is
39 made may obtain the most complete information on the basis of which to
40 evaluate a projected placement before it is made.

41 (d) Appropriate jurisdictional arrangements for the care of children
42 will be promoted.

43 ARTICLE II. *Definitions*

1 As used in this compact: (a) "Child" means a person who, by reason of
2 minority, is legally subject to parental, guardianship or similar control.

3 (b) "Sending agency" means a party state; officer or employee
4 thereof; a subdivision of a party state, or officer or employee thereof; a
5 court of a party state, a person, corporation, association, charitable agency
6 or other entity which sends, brings, or causes to be sent or brought any
7 child to another party state.

8 (c) "Receiving state" means the state to which a child is sent, brought,
9 or caused to be sent or brought, whether by public authorities or private
10 persons or agencies, and whether for placement with state or local public
11 authorities or for placement with private agencies or persons.

12 (d) "Placement" means the arrangement for the care of a child in a
13 family free or boarding home or in a child-caring agency or institution but
14 does not include any institution caring for the mentally ill, mentally
15 defective or epileptic or any institution primarily educational in character,
16 and any hospital or other medical facility.

17 ARTICLE III. *Conditions for Placement*

18 (a) No sending agency shall send, bring, or cause to be sent or
19 brought into any other party state any child for placement in foster care or
20 as a preliminary to a possible adoption unless the sending agency shall
21 comply with each and every requirement set forth in this article and with
22 the applicable laws of the receiving state governing the placement of
23 children therein.

24 (b) Prior to sending, bringing or causing any child to be sent or
25 brought into a receiving state for placement in foster care or as a
26 preliminary to a possible adoption, the sending agency shall furnish the
27 appropriate public authorities in the receiving state written notice of the
28 intention to send, bring, or place the child in the receiving state. The notice
29 shall contain:

30 (1) The name, date and place of birth of the child.

31 (2) The identity and address or addresses of the parents or legal
32 guardian.

33 (3) The name and address of the person, agency or institution to or
34 with which the sending agency proposes to send, bring, or place the child.

35 (4) A full statement of the reasons for such proposed action and
36 evidence of the authority pursuant to which the placement is proposed to
37 be made.

38 (c) Any public officer or agency in a receiving state which is in
39 receipt of a notice pursuant to paragraph (b) of this article may request of
40 the sending agency, or any other appropriate officer or agency of or in the
41 sending agency's state, and shall be entitled to receive therefrom, such
42 supporting or additional information as it may deem necessary under the
43 circumstances to carry out the purpose and policy of this compact.

1 (d) The child shall not be sent, brought, or caused to be sent or
2 brought into the receiving state until the appropriate public authorities in
3 the receiving state shall notify the sending agency, in writing, to the effect
4 that the proposed placement does not appear to be contrary to the interests
5 of the child.

6 ARTICLE IV. *Penalty for Illegal Placement*

7 The sending, bringing, or causing to be sent or brought into any
8 receiving state of a child in violation of the terms of this compact shall
9 constitute a violation of the laws respecting the placement of children of
10 both the state in which the sending agency is located or from which it
11 sends or brings the child and of the receiving state. Such violation may be
12 punished or subjected to penalty in either jurisdiction in accordance with
13 its laws. In addition to liability for any such punishment or penalty, any
14 such violation shall constitute full and sufficient grounds for the
15 suspension or revocation of any license, permit, or other legal
16 authorization held by the sending agency which empowers or allows it to
17 place, or care for children.

18 ARTICLE V. *Retention of Jurisdiction*

19 (a) The sending agency shall retain jurisdiction over the child
20 sufficient to determine all matters in relation to the custody, supervision,
21 care, treatment and disposition of the child which it would have had if the
22 child had remained in the sending agency's state, until the child is adopted,
23 reaches majority, becomes self-supporting or is discharged with the
24 concurrence of the appropriate authority in the receiving state. Such
25 jurisdiction shall also include the power to effect or cause the return of the
26 child or its transfer to another location and custody pursuant to law. The
27 sending agency shall continue to have financial responsibility for support
28 and maintenance of the child during the period of the placement. Nothing
29 contained herein shall defeat a claim of jurisdiction by a receiving state
30 sufficient to deal with an act of delinquency or crime committed therein.

31 (b) When the sending agency is a public agency, it may enter into an
32 agreement with an authorized public or private agency in the receiving
33 state providing for the performance of one or more services in respect of
34 such case by the latter as agent for the sending agency.

35 (c) Nothing in this compact shall be construed to prevent a private
36 charitable agency authorized to place children in the receiving state from
37 performing services or acting as agent in that state for a private charitable
38 agency of the sending state, nor to prevent the agency in the receiving state
39 from discharging financial responsibility for the support and maintenance
40 of a child who has been placed on behalf of the sending agency without
41 relieving the responsibility set forth in paragraph (a) hereof.

42 ARTICLE VI. *Institutional Care of Delinquent Children*

43 A child adjudicated delinquent may be placed in an institution in

1 another party jurisdiction pursuant to this compact but no such placement
2 shall be made unless the child is given a court hearing on notice to the
3 parent or guardian with opportunity to be heard, prior to his being sent to
4 such other party jurisdiction for institutional care and the court finds that:

5 (1) Equivalent facilities for the child are not available in the sending
6 agency's jurisdiction; and

7 (2) institutional care in the other jurisdiction is in the best interest of
8 the child and will not produce undue hardship.

9 *ARTICLE VII. Compact Administrator*

10 The executive head of each jurisdiction party to this compact shall
11 designate an officer who shall be general coordinator of activities under
12 this compact in his jurisdiction and who, acting jointly with like officers of
13 other party jurisdictions, shall have power to promulgate rules and
14 regulations to carry out more effectively the terms and provisions of this
15 compact.

16 *ARTICLE VIII. Limitations*

17 This compact shall not apply to: (a) The sending or bringing of a child
18 into a receiving state by his parent, step-parent, grandparent, adult brother
19 or sister, adult uncle or aunt, or his guardian and leaving the child with any
20 such relative or non-agency guardian in the receiving state.

21 (b) Any placement, sending or bringing of a child into a receiving
22 state pursuant to any other interstate compact to which both the state from
23 which the child is sent or brought and the receiving state are party, or to
24 any other agreement between said states which has the force of law.

25 *ARTICLE IX. Enactment and Withdrawal*

26 This compact shall be open to joinder by any state, territory or
27 possession of the United States, the District of Columbia, the
28 Commonwealth of Puerto Rico, and, with the consent of Congress, the
29 Government of Canada or any province thereof. It shall become effective
30 with respect to any such jurisdiction when such jurisdiction has enacted
31 the same into law. Withdrawal from this compact shall be by the
32 enactment of a statute repealing the same, but shall not take effect until
33 two (2) years after the effective date of such statute and until written notice
34 of the withdrawal has been given by the withdrawing state to the Governor
35 of each other party jurisdiction. Withdrawal of a party state shall not affect
36 the rights, duties and obligations under this compact of any sending
37 agency therein with respect to a placement made prior to the effective date
38 of withdrawal.

39 *ARTICLE X. Construction and Severability*

40 The provisions of this compact shall be liberally construed to effectuate
41 the purposes thereof. The provisions of this compact shall be severable and
42 if any phrase, clause, sentence or provision of this compact is declared to
43 be contrary to the constitution of any party state or of the United States or

1 the applicability thereof to any government, agency, person or
2 circumstance is held invalid, the validity of the remainder of this compact
3 and the applicability thereof to any government, agency, person or
4 circumstance shall not be affected thereby. If this compact shall be held
5 contrary to the constitution of any state party thereto, the compact shall
6 remain in full force and effect as to the remaining states and in full force
7 and effect as to the state affected as to all severable matters.

8 New Sec. 63. Pursuant to said compact, the governor is hereby
9 authorized and empowered to designate an officer who shall be the
10 compact administrator and who, acting jointly with like officers of other
11 party states, shall promulgate rules and regulations to carry out more
12 effectively the terms of the compact. Said compact administrator shall
13 serve subject to the pleasure of the governor. The compact administrator is
14 hereby authorized, empowered and directed to cooperate with all
15 departments, agencies and officers of and in the government of this state
16 and its subdivisions in facilitating the proper administration of the compact
17 or of any supplementary agreement or agreements entered into by this state
18 hereunder.

19 New Sec. 64. The compact administrator is hereby authorized and
20 empowered to enter into supplementary agreements with appropriate
21 officials of other states pursuant to the compact. In the event that such
22 supplementary agreement shall require or contemplate the use of any
23 institution or facility of this state or require or contemplate the provision of
24 any service by this state, said supplementary agreement shall have no force
25 or effect until approved by the head of the department or agency under
26 whose jurisdiction said institution or facility is operated or whose
27 department or agency will be charged with the rendering of such service.

28 New Sec. 65. The compact administrator, subject to the approval of
29 the state director of accounts and reports, may make or arrange for any
30 payments necessary to discharge any financial obligations imposed upon
31 this state by the compact or by any supplementary agreement entered into
32 thereunder.

33 New Sec. 66. The courts, departments, agencies and officers of this
34 state and its subdivisions shall enforce this compact and shall do all things
35 appropriate to the effectuation of its purposes and intent which may be
36 within their respective jurisdictions. Failure to comply with the provisions
37 of the interstate compact on the placement of children by any professional
38 providing services related to the placement of children is a class C
39 misdemeanor. For the purposes of this section, "professional" means any
40 person who receives payment or compensation for providing services
41 related to the placement of children for adoption.

42 New Sec. 67. This act may be cited as the Interstate Compact for
43 Juveniles.

1 THE INTERSTATE COMPACT FOR JUVENILES

2 ARTICLE I

3 PURPOSE

4 The compacting states to this Interstate Compact recognize that each
5 state is responsible for the proper supervision or return of juveniles,
6 delinquents and status offenders who are on probation or parole and who
7 have absconded, escaped or run away from supervision and control and in
8 so doing have endangered their own safety and the safety of others. The
9 compacting states also recognize that each state is responsible for the safe
10 return of juveniles who have run away from home and in doing so have
11 left their state of residence. The compacting states also recognize that
12 Congress, by enacting the Crime Control Act, 4 U.S.C. Section 112
13 (1965), has authorized and encouraged compacts for cooperative efforts
14 and mutual assistance in the prevention of crime.

15 It is the purpose of this compact, through means of joint and
16 cooperative action among the compacting states to: (a) Ensure that the
17 adjudicated juveniles and status offenders subject to this compact are
18 provided adequate supervision and services in the receiving state as
19 ordered by the adjudicating judge or parole authority in the sending state;
20 (b) ensure that the public safety interests of the citizens, including the
21 victims of juvenile offenders, in both the sending and receiving states are
22 adequately protected; (c) return juveniles who have run away, absconded
23 or escaped from supervision or control or have been accused of an offense
24 to the state requesting their return; (d) make contracts for the cooperative
25 institutionalization in public facilities in member states for delinquent
26 youth needing special services; (e) provide for the effective tracking and
27 supervision of juveniles; (f) equitably allocate the costs, benefits and
28 obligations of the compacting states; (g) establish procedures to manage
29 the movement between states of juvenile offenders released to the
30 community under the jurisdiction of courts, juvenile departments, or any
31 other criminal or juvenile justice agency which has jurisdiction over
32 juvenile offenders; (h) insure immediate notice to jurisdiction where
33 defined offenders are authorized to travel or to relocate across state lines;
34 (i) establish procedures to resolve pending charges (detainers) against
35 juvenile offenders prior to transfer or release to the community under the
36 terms of this compact; (j) establish a system of uniform data collection on
37 information pertaining to juveniles subject to this compact that allows
38 access by authorized juvenile justice and criminal justice officials, and
39 regular reporting of compact activities to heads of state executive, judicial,
40 and legislative branches and juvenile and criminal justice administrators;
41 (k) monitor compliance with rules governing interstate movement of
42 juveniles and initiate interventions to address and correct non-compliance;
43 (l) coordinate training and education regarding the regulation of interstate

1 movement of juveniles for officials involved in such activity; and (m)
2 coordinate the implementation and operation of the compact with the
3 Interstate Compact for the Placement of Children, the Interstate Compact
4 for Adult Offender Supervision and other compacts affecting juveniles
5 particularly in those cases where concurrent or overlapping supervision
6 issues arise. It is the policy of the compacting states that the activities
7 conducted by the Interstate Commission created herein are the formation
8 of public policies and therefore are public business. Furthermore, the
9 compacting states shall cooperate and observe their individual and
10 collective duties and responsibilities for the prompt return and acceptance
11 of juveniles subject to the provisions of this compact. The provisions of
12 this compact shall be reasonably and liberally construed to accomplish the
13 purposes and policies of the compact.

14 ARTICLE II
15 DEFINITIONS

16 As used in this compact, unless the context clearly requires a different
17 construction:

18 (a) "By-laws" means: Those by-laws established by the Interstate
19 Commission for its governance, or for directing or controlling its actions
20 or conduct.

21 (b) "Compact Administrator" means: The individual in each
22 compacting state appointed pursuant to the terms of this compact,
23 responsible for the administration and management of the state's
24 supervision and transfer of juveniles subject to the terms of this compact,
25 the rules adopted by the Interstate Commission and policies adopted by the
26 State Council under this compact.

27 (c) "Compacting State" means: Any state which has enacted the
28 enabling legislation for this compact.

29 (d) "Commissioner" means: The voting representative of each
30 compacting state appointed pursuant to Article III of this compact.

31 (e) "Court" means: Any court having jurisdiction over delinquent,
32 neglected or dependent children.

33 (f) "Deputy Compact Administrator" means: The individual, if any, in
34 each compacting state appointed to act on behalf of a Compact
35 Administrator pursuant to the terms of this compact responsible for the
36 administration and management of the state's supervision and transfer of
37 juveniles subject to the terms of this compact, the rules adopted by the
38 Interstate Commission and policies adopted by the State Council under
39 this compact.

40 (g) "Interstate Commission" means: The Interstate Commission for
41 Juveniles created by Article III of this compact.

42 (h) "Juvenile" means: Any person defined as a juvenile in any
43 member state or by the rules of the Interstate Commission, including:

1 (1) Accused Delinquent - a person charged with an offense that, if
2 committed by an adult, would be a criminal offense;

3 (2) Adjudicated Delinquent - a person found to have committed an
4 offense that, if committed by an adult, would be a criminal offense;

5 (3) Accused Status Offender - a person charged with an offense that
6 would not be a criminal offense if committed by an adult;

7 (4) Adjudicated Status Offender - a person found to have committed
8 an offense that would not be a criminal offense if committed by an adult;
9 and

10 (5) Non-Offender - a person in need of supervision who has not been
11 accused or adjudicated a status offender or delinquent.

12 (i) "Non-Compacting state" means: Any state which has not enacted
13 the enabling legislation for this compact.

14 (j) "Probation or Parole" means: Any kind of supervision or
15 conditional release of juveniles authorized under the laws of the
16 compacting states.

17 (k) "Rule" means: A written statement by the Interstate Commission
18 promulgated pursuant to Article VI of this compact that is of general
19 applicability, implements, interprets or prescribes a policy or provision of
20 the Compact, or an organizational, procedural, or practice requirement of
21 the Commission, and has the force and effect of statutory law in a
22 compacting state, and includes the amendment, repeal, or suspension of an
23 existing rule.

24 (l) "State" means: A state of the United States, the District of
25 Columbia (or its designee), the Commonwealth of Puerto Rico, the U.S.
26 Virgin Islands, Guam, American Samoa, and the Northern Marianas
27 Islands.

28 ARTICLE III
29 INTERSTATE COMMISSION FOR
30 JUVENILES

31 (a) The compacting states hereby create the "Interstate Commission
32 for Juveniles." The commission shall be a body corporate and joint agency
33 of the compacting states. The commission shall have all the
34 responsibilities, powers and duties set forth herein, and such additional
35 powers as may be conferred upon it by subsequent action of the respective
36 legislatures of the compacting states in accordance with the terms of this
37 compact.

38 (b) The Interstate Commission shall consist of commissioners
39 appointed by the appropriate appointing authority in each state pursuant to
40 the rules and requirements of each compacting state and in consultation
41 with the State Council for Interstate Juvenile Supervision created
42 hereunder. The commissioner shall be the compact administrator, deputy
43 compact administrator or designee from that state who shall serve on the

1 Interstate Commission in such capacity under or pursuant to the applicable
2 law of the compacting state.

3 (c) In addition to the commissioners who are the voting
4 representatives of each state, the Interstate Commission shall include
5 individuals who are not commissioners, but who are members of interested
6 organizations. Such non-commissioner members must include a member
7 of the national organizations of governors, legislators, state chief justices,
8 attorneys general, Interstate Compact for Adult Offender Supervision,
9 Interstate Compact for the Placement of Children, juvenile justice and
10 juvenile corrections officials, and crime victims. All non-commissioner
11 members of the Interstate Commission shall be ex-officio (non-voting)
12 members. The Interstate Commission may provide in its by-laws for such
13 additional ex-officio (non-voting) members, including members of other
14 national organizations, in such numbers as shall be determined by the
15 commission.

16 (d) Each compacting state represented at any meeting of the
17 commission is entitled to one vote. A majority of the compacting states
18 shall constitute a quorum for the transaction of business, unless a larger
19 quorum is required by the by-laws of the Interstate Commission.

20 (e) The commission shall meet at least once each calendar year. The
21 chairperson may call additional meetings and, upon the request of a simple
22 majority of the compacting states, shall call additional meetings. Public
23 notice shall be given of all meetings and meetings shall be open to the
24 public.

25 (f) The Interstate Commission shall establish an executive committee,
26 which shall include commission officers, members, and others as
27 determined by the by-laws. The executive committee shall have the power
28 to act on behalf of the Interstate Commission during periods when the
29 Interstate Commission is not in session, with the exception of rulemaking
30 and/or amendment to the compact. The executive committee shall oversee
31 the day-to-day activities of the administration of the compact managed by
32 an executive director and Interstate Commission staff; administers
33 enforcement and compliance with the provisions of the compact, its by-
34 laws and rules, and performs such other duties as directed by the Interstate
35 Commission or set forth in the by-laws.

36 (g) Each member of the Interstate Commission shall have the right
37 and power to cast a vote to which that compacting state is entitled and to
38 participate in the business and affairs of the Interstate Commission. A
39 member shall vote in person and shall not delegate a vote to another
40 compacting state. However, a commissioner, in consultation with the state
41 council, shall appoint another authorized representative, in the absence of
42 the commissioner from that state, to cast a vote on behalf of the
43 compacting state at a specified meeting. The by-laws may provide for

1 members' participation in meetings by telephone or other means of
2 telecommunication or electronic communication.

3 (h) The Interstate Commission's by-laws shall establish conditions
4 and procedures under which the Interstate Commission shall make its
5 information and official records available to the public for inspection or
6 copying. The Interstate Commission may exempt from disclosure any
7 information or official records to the extent they would adversely affect
8 personal privacy rights or proprietary interests.

9 (i) Public notice shall be given of all meetings and all meetings shall
10 be open to the public, except as set forth in the Rules or as otherwise
11 provided in the Compact. The Interstate Commission and any of its
12 committees may close a meeting to the public where it determines by two-
13 thirds vote that an open meeting would be likely to:

14 (1) Relate solely to the Interstate Commission's internal personnel
15 practices and procedures;

16 (2) disclose matters specifically exempted from disclosure by statute;

17 (3) disclose trade secrets or commercial or financial information
18 which is privileged or confidential;

19 (4) involve accusing any person of a crime, or formally censuring any
20 person;

21 (5) disclose information of a personal nature where disclosure would
22 constitute a clearly unwarranted invasion of personal privacy;

23 (6) disclose investigative records compiled for law enforcement
24 purposes;

25 (7) disclose information contained in or related to examination,
26 operating or condition reports prepared by, or on behalf of or for the use
27 of, the Interstate Commission with respect to a regulated person or entity
28 for the purpose of regulation or supervision of such person or entity;

29 (8) disclose information, the premature disclosure of which would
30 significantly endanger the stability of a regulated person or entity; or

31 (9) specifically relate to the Interstate Commission's issuance of a
32 subpoena, or its participation in a civil action or other legal proceeding.

33 (j) For every meeting closed pursuant to this provision, the Interstate
34 Commission's legal counsel shall publicly certify that, in the legal
35 counsel's opinion, the meeting may be closed to the public, and shall
36 reference each relevant exemptive provision. The Interstate Commission
37 shall keep minutes which shall fully and clearly describe all matters
38 discussed in any meeting and shall provide a full and accurate summary of
39 any actions taken, and the reasons therefore, including a description of
40 each of the views expressed on any item and the record of any roll call
41 vote (reflected in the vote of each member on the question). All documents
42 considered in connection with any action shall be identified in such
43 minutes.

1 (k) The Interstate Commission shall collect standardized data
2 concerning the interstate movement of juveniles as directed through its
3 rules which shall specify the data to be collected, the means of collection
4 and data exchange and reporting requirements. Such methods of data
5 collection, exchange and reporting shall insofar as is reasonably possible
6 conform to up-to-date technology, and coordinate its information functions
7 with the appropriate repository of records.

8 ARTICLE IV

9 POWERS AND DUTIES OF THE 10 INTERSTATE COMMISSION

11 The commission shall have the following powers and duties:

12 (1) To provide for dispute resolution among compacting states.

13 (2) To promulgate rules to effect the purposes and obligations as
14 enumerated in this compact, which shall have the force and effect of
15 statutory law and shall be binding in the compacting states to the extent
16 and in the manner provided in this compact.

17 (3) To oversee, supervise and coordinate the interstate movement of
18 juveniles subject to the terms of this compact and any by-laws adopted and
19 rules promulgated by the Interstate Commission.

20 (4) To enforce compliance with the compact provisions, the rules
21 promulgated by the Interstate Commission, and the by-laws, using all
22 necessary and proper means, including, but not limited to, the use of
23 judicial process.

24 (5) To establish and maintain offices which shall be located within
25 one or more of the compacting states.

26 (6) To purchase and maintain insurance and bonds.

27 (7) To borrow, accept, hire or contract for services of personnel.

28 (8) To establish and appoint committees and hire staff which it deems
29 necessary for the carrying out of its functions including, but not limited to,
30 an executive committee as required by Article III which shall have the
31 power to act on behalf of the Interstate Commission in carrying out its
32 power and duties hereunder.

33 (9) To elect or appoint such officers, attorneys, employees, agents, or
34 consultants, and to fix their compensation, define their duties and
35 determine their qualifications; and to establish the Interstate Commission's
36 personnel policies and programs relating to, inter alia, conflicts of interest,
37 rates of compensation, and qualifications of personnel.

38 (10) To accept any and all donations and grants of money, equipment,
39 supplies, materials, and services, and to receive, utilize, and dispose of it.

40 (11) To lease, purchase, accept contributions or donations of, or
41 otherwise to own, hold, improve or use any property, real, personal, or
42 mixed.

43 (12) To sell, convey, mortgage, pledge, lease, exchange, abandon, or

1 otherwise dispose of any property, real, personal, or mixed.

2 (13) To establish a budget and make expenditures and levy dues as
3 provided in Article VIII of this compact.

4 (14) To sue and be sued.

5 (15) To adopt a seal and by-laws governing the management and
6 operation of the Interstate Commission.

7 (16) To perform such functions as may be necessary or appropriate to
8 achieve the purposes of this compact.

9 (17) To report annually to the legislatures, governors, judiciary, and
10 state councils of the compacting states concerning the activities of the
11 Interstate Commission during the preceding year. Such reports shall also
12 include any recommendations that may have been adopted by the
13 Interstate Commission.

14 (18) To coordinate education, training and public awareness
15 regarding the interstate movement of juveniles for officials involved in
16 such activity.

17 (19) To establish uniform standards of the reporting, collecting and
18 exchanging of data.

19 (20) The Interstate Commission shall maintain its corporate books
20 and records in accordance with the By-laws.

21 ARTICLE V

22 ORGANIZATION AND OPERATION OF

23 THE INTERSTATE COMMISSION

24 Section (a) By-laws

25 (1) The Interstate Commission shall, by a majority of the members
26 present and voting, within twelve months after the first Interstate
27 Commission meeting, adopt by-laws to govern its conduct as may be
28 necessary or appropriate to carry out the purposes of the compact,
29 including, but not limited to:

30 (A) Establishing the fiscal year of the Interstate Commission;

31 (B) establishing an executive committee and such other committees
32 as may be necessary;

33 (C) provide for the establishment of committees governing any
34 general or specific delegation of any authority or function of the Interstate
35 Commission;

36 (D) providing reasonable procedures for calling and conducting
37 meetings of the Interstate Commission, and ensuring reasonable notice of
38 each such meeting;

39 (E) establishing the titles and responsibilities of the officers of the
40 Interstate Commission;

41 (F) providing a mechanism for concluding the operations of the
42 Interstate Commission and the return of any surplus funds that may exist
43 upon the termination of the compact after the payment and/or reserving of

1 all of its debts and obligations;

2 (G) providing "start-up" rules for initial administration of the
3 compact; and

4 (H) establishing standards and procedures for compliance and
5 technical assistance in carrying out the compact.

6 Section (b) Officers and Staff

7 (1) The Interstate Commission shall, by a majority of the members,
8 elect annually from among its members a chairperson and a vice-
9 chairperson, each of whom shall have such authority and duties as may be
10 specified in the by-laws. The chairperson or, in the chairperson's absence
11 or disability, the vice-chairperson shall preside at all meetings of the
12 Interstate Commission. The officers so elected shall serve without
13 compensation or remuneration from the Interstate Commission; provided
14 that, subject to the availability of budgeted funds, the officers shall be
15 reimbursed for any ordinary and necessary costs and expenses incurred by
16 them in the performance of their duties and responsibilities as officers of
17 the Interstate Commission.

18 (2) The Interstate Commission shall, through its executive committee,
19 appoint or retain an executive director for such period, upon such terms
20 and conditions and for such compensation as the Interstate Commission
21 may deem appropriate. The executive director shall serve as secretary to
22 the Interstate Commission, but shall not be a Member and shall hire and
23 supervise such other staff as may be authorized by the Interstate
24 Commission.

25 Section (c) Qualified Immunity, Defense and Indemnification

26 (1) The Commission's executive director and employees shall be
27 immune from suit and liability, either personally or in their official
28 capacity, for any claim for damage to or loss of property or personal injury
29 or other civil liability caused or arising out of or relating to any actual or
30 alleged act, error or omission that occurred, or that such person had a
31 reasonable basis for believing occurred within the scope of Commission
32 employment, duties or responsibilities; provided, that any such person
33 shall not be protected from suit or liability for any damage, loss, injury or
34 liability caused by the intentional or willful and wanton misconduct of any
35 such person.

36 (2) The liability of any commissioner, or the employee or agent of a
37 commissioner, acting within the scope of such person's employment or
38 duties for acts, errors, or omissions occurring within such person's state
39 may not exceed the limits of liability set forth under the constitution and
40 laws of that state for state officials, employees and agents. Nothing in this
41 subsection shall be construed to protect any such person from suit or
42 liability for any damage, loss, injury or liability caused by the intentional
43 or willful and wanton misconduct of any such person.

1 (3) The Interstate Commission shall defend the executive director or
2 the employees or representatives of the Interstate Commission and, subject
3 to the approval of the Attorney General of the state represented by any
4 commissioner of a compacting state, shall defend such commissioner or
5 the commissioner's representatives or employees in any civil action
6 seeking to impose liability arising out of any actual or alleged act, error or
7 omission that occurred within the scope of Interstate Commission
8 employment, duties or responsibilities, or that the defendant had a
9 reasonable basis for believing occurred within the scope of Interstate
10 Commission employment, duties or responsibilities, provided that the
11 actual or alleged act, error or omission did not result from intentional or
12 willful and wanton misconduct on the part of such person.

13 (4) The Interstate Commission shall indemnify and hold the
14 commissioner of a compacting state, or the commissioner's representatives
15 or employees, or the Interstate Commission's representatives or
16 employees, harmless in the amount of any settlement or judgment obtained
17 against such persons arising out of any actual or alleged act, error or
18 omission that occurred within the scope of Interstate Commission
19 employment, duties or responsibilities, or that such persons had a
20 reasonable basis for believing occurred within the scope of Interstate
21 Commission employment, duties or responsibilities, provided that the
22 actual or alleged act, error or omission did not result from intentional or
23 willful and wanton misconduct on the part of such persons.

24 ARTICLE VI

25 RULEMAKING FUNCTIONS OF THE 26 INTERSTATE COMMISSION

27 (a) The Interstate Commission shall promulgate and publish rules in
28 order to effectively and efficiently achieve the purposes of the compact.

29 (b) Rulemaking shall occur pursuant to the criteria set forth in this
30 article and the by-laws and rules adopted pursuant thereto. Such
31 rulemaking shall substantially conform to the principles of the "Model
32 State Administrative Procedures Act," 1981 Act, Uniform Laws Annotated,
33 Vol. 15, p.1 (2000), or such other administrative procedures act, as the
34 Interstate Commission deems appropriate consistent with due process
35 requirements under the U.S. Constitution as now or hereafter interpreted
36 by the U.S. Supreme Court. All rules and amendments shall become
37 binding as of the date specified, as published with the final version of the
38 rule as approved by the Commission.

39 (c) When promulgating a rule, the Interstate Commission shall, at a
40 minimum:

41 (1) Publish the proposed rule's entire text stating the reason(s) for that
42 proposed rule;

43 (2) allow and invite any and all persons to submit written data, facts,

1 opinions and arguments, which information shall be added to the record,
2 and be made publicly available;

3 (3) provide an opportunity for an informal hearing if petitioned by ten
4 (10) or more persons; and

5 (4) promulgate a final rule and its effective date, if appropriate, based
6 on input from state or local officials, or interested parties.

7 (d) Allow, not later than sixty days after a rule is promulgated, any
8 interested person to file a petition in the United States District Court of the
9 District of Columbia or in the Federal District Court where the Interstate
10 Commission's principal office is located for judicial review of such rule. If
11 the court finds that the Interstate Commission's action is not supported by
12 substantial evidence in the rulemaking record, the court shall hold the rule
13 unlawful and set it aside. For purposes of this subsection, evidence is
14 substantial if it would be considered substantial evidence under the Model
15 State Administrative Procedures Act.

16 (e) If a majority of the legislatures of the compacting states rejects a
17 rule, those states may, by enactment of a statute or resolution in the same
18 manner used to adopt the compact, cause that such rule shall have no
19 further force and effect in any compacting state.

20 (f) The existing rules governing the operation of the Interstate
21 Compact on Juveniles superseded by this act shall be null and void twelve
22 (12) months after the first meeting of the Interstate Commission created
23 hereunder.

24 (g) Upon determination by the Interstate Commission that a state of
25 emergency exists, it may promulgate an emergency rule which shall
26 become effective immediately upon adoption, provided that the usual
27 rulemaking procedures provided hereunder shall be retroactively applied
28 to said rule as soon as reasonably possible, but no later than ninety (90)
29 days after the effective date of the emergency rule.

30 ARTICLE VII

31 OVERSIGHT, ENFORCEMENT AND 32 DISPUTE RESOLUTION BY THE 33 INTERSTATE COMMISSION

34 Section (a) Oversight

35 (1) The Interstate Commission shall oversee the administration and
36 operations of the interstate movement of juveniles subject to this compact
37 in the compacting states and shall monitor such activities being
38 administered in non-compacting states which may significantly affect
39 compacting states.

40 (2) The courts and executive agencies in each compacting state shall
41 enforce this compact and shall take all actions necessary and appropriate to
42 effectuate the compact's purposes and intent. The provisions of this
43 compact and the rules promulgated hereunder shall be received by all the

1 judges, public officers, commissions and departments of the state
2 government as evidence of the authorized statute and administrative rules.
3 All courts shall take judicial notice of the compact and the rules. In any
4 judicial or administrative proceeding in a compacting state pertaining to
5 the subject matter of this compact which may affect the powers,
6 responsibilities or actions of the Interstate Commission, it shall be entitled
7 to receive all service of process in any such proceeding, and shall have
8 standing to intervene in the proceeding for all purposes.

9 Section (b) Dispute Resolution

10 (1) The compacting states shall report to the Interstate Commission
11 on all issues and activities necessary for the administration of the compact
12 as well as issues and activities pertaining to compliance with the
13 provisions of the compact and its bylaws and rules.

14 (2) The Interstate Commission shall attempt, upon the request of a
15 compacting state, to resolve any disputes or other issues which are subject
16 to the compact and which may arise among compacting states and between
17 compacting and non-compacting states. The commission shall promulgate
18 a rule providing for both mediation and binding dispute resolution for
19 disputes among the compacting states.

20 (3) The Interstate Commission, in the reasonable exercise of its
21 discretion, shall enforce the provisions and rules of this compact using any
22 or all means set forth in Article XI of this compact.

23 ARTICLE VIII

24 THE STATE COUNCIL

25 (a) The Interstate Commission shall pay or provide for the payment
26 of the reasonable expenses of its establishment, organization and ongoing
27 activities.

28 (b) The Interstate Commission shall levy on and collect an annual
29 assessment from each compacting state to cover the cost of the internal
30 operations and activities of the Interstate Commission and its staff which
31 must be in a total amount sufficient to cover the Interstate Commission's
32 annual budget as approved each year. The aggregate annual assessment
33 amount shall be allocated based upon a formula to be determined by the
34 Interstate Commission, taking into consideration the population of each
35 compacting state and the volume of interstate movement of juveniles in
36 each compacting state and shall promulgate a rule binding upon all
37 compacting states which governs said assessment.

38 (c) The Interstate Commission shall not incur any obligations of any
39 kind prior to securing the funds adequate to meet the same; nor shall the
40 Interstate Commission pledge the credit of any of the compacting states,
41 except by and with the authority of the compacting state.

42 (d) The Interstate Commission shall keep accurate accounts of all
43 receipts and disbursements. The receipts and disbursements of the

1 Interstate Commission shall be subject to the audit and accounting
2 procedures established under its by-laws. However, all receipts and
3 disbursements of funds handled by the Interstate Commission shall be
4 audited yearly by a certified or licensed public accountant and the report of
5 the audit shall be included in and become part of the annual report of the
6 Interstate Commission.

7 ARTICLE IX
8 THE STATE COUNCIL

9 Each member state shall create a State Council for Interstate Juvenile
10 Supervision. While each state may determine the membership of its own
11 state council, its membership must include at least one representative from
12 the legislative, judicial, and executive branches of government, victims
13 groups, and the compact administrator, deputy compact administrator or
14 designee. Each compacting state retains the right to determine the
15 qualifications of the compact administrator or deputy compact
16 administrator. Each state council will advise and may exercise oversight
17 and advocacy concerning that state's participation in Interstate
18 Commission activities and other duties as may be determined by that state,
19 including but not limited to, development of policy concerning operations
20 and procedures of the compact within that state.

21 ARTICLE X
22 COMPACTING STATES, EFFECTIVE DATE
23 AND AMENDMENT

24 (a) Any state, the District of Columbia (or its designee), the
25 Commonwealth of Puerto Rico, the U.S. Virgin Islands, Guam, American
26 Samoa, and the Northern Marianas Islands as defined in Article II of this
27 compact is eligible to become a compacting state.

28 (b) The compact shall become effective and binding upon legislative
29 enactment of the compact into law by no less than 35 of the states. The
30 initial effective date shall be the later of July 1, 2004, or upon enactment
31 into law by the 35th jurisdiction. Thereafter, it shall become effective and
32 binding as to any other compacting state upon enactment of the compact
33 into law by that state. The governors of non-member states or their
34 designees shall be invited to participate in the activities of the Interstate
35 Commission on a non-voting basis prior to adoption of the compact by all
36 states and territories of the United States.

37 (c) The Interstate Commission may propose amendments to the
38 compact for enactment by the compacting states. No amendments shall
39 become effective and binding upon the Interstate Commission and the
40 compacting states unless and until it is enacted into law by unanimous
41 consent of the compacting states.

42 ARTICLE XI
43 WITHDRAWAL, DEFAULT, TERMINATION

1 AND JUDICIAL ENFORCEMENT

2 Section (a) Withdrawal

3 (1) Once effective, the compact shall continue in force and remain
4 binding upon each and every compacting state; provided that a compacting
5 state may withdraw from the compact by specifically repealing the statute
6 which enacted the compact into law.

7 (2) The effective date of withdrawal is the effective date of the repeal.

8 (3) The withdrawing state shall immediately notify the chairperson of
9 the Interstate Commission in writing upon the introduction of legislation
10 repealing this compact in the withdrawing state. The Interstate
11 Commission shall notify the other compacting states of the withdrawing
12 state's intent to withdraw within sixty days of its receipt thereof.

13 (4) The withdrawing state is responsible for all assessments,
14 obligations and liabilities incurred through the effective date of
15 withdrawal, including any obligations, the performance of which extend
16 beyond the effective date of withdrawal.

17 (5) Reinstatement following withdrawal of any compacting state shall
18 occur upon the withdrawing state reenacting the compact or upon such
19 later date as determined by the Interstate Commission.

20 Section (b) Technical Assistance, Fines, Suspension, Termination and
21 Default

22 (1) If the Interstate Commission determines that any compacting state
23 has at any time defaulted in the performance of any of its obligations or
24 responsibilities under this compact, or the by-laws or duly promulgated
25 rules, the Interstate Commission may impose any or all of the following
26 penalties:

27 (A) Remedial training and technical assistance as directed by the
28 Interstate Commission;

29 (B) alternative dispute resolution;

30 (C) fines, fees and costs in such amounts as are deemed to be
31 reasonable as fixed by the Interstate Commission; and

32 (D) suspension or termination of membership in the compact, which
33 shall be imposed only after all other reasonable means of securing
34 compliance under the by-laws and rules have been exhausted and the
35 Interstate Commission has therefore determined that the offending state is
36 in default. Immediate notice of suspension shall be given by the Interstate
37 Commission to the Governor, the Chief Justice or the Chief Judicial
38 Officer of the state, the majority and minority leaders of the defaulting
39 state's legislature, and the state council. The grounds for default include,
40 but are not limited to, failure of a compacting state to perform such
41 obligations or responsibilities imposed upon it by this compact, the by-
42 laws, or duly promulgated rules and any other grounds designated in
43 commission by-laws and rules. The Interstate Commission shall

1 immediately notify the defaulting state in writing of the penalty imposed
2 by the Interstate Commission and of the default pending a cure of the
3 default. The commission shall stipulate the conditions and the time period
4 within which the defaulting state must cure its default. If the defaulting
5 state fails to cure the default within the time period specified by the
6 commission, the defaulting state shall be terminated from the compact
7 upon an affirmative vote of a majority of the compacting states and all
8 rights, privileges and benefits conferred by this compact shall be
9 terminated from the effective date of termination.

10 (2) Within 60 days of the effective date of termination of a defaulting
11 state, the Commission shall notify the Governor, the Chief Justice or Chief
12 Judicial Officer, the Majority and Minority Leaders of the defaulting state's
13 legislature, and the state council of such termination.

14 (3) The defaulting state is responsible for all assessments, obligations
15 and liabilities incurred through the effective date of termination including
16 any obligations, the performance of which extends beyond the effective
17 date of termination.

18 (4) The Interstate Commission shall not bear any costs relating to the
19 defaulting state unless otherwise mutually agreed upon in writing between
20 the Interstate Commission and the defaulting state.

21 (5) Reinstatement following termination of any compacting state
22 requires both a reenactment of the compact by the defaulting state and the
23 approval of the Interstate Commission pursuant to the rules.

24 Section (c) Judicial Enforcement

25 The Interstate Commission may, by majority vote of the members,
26 initiate legal action in the United States District Court for the District of
27 Columbia or, at the discretion of the Interstate Commission, in the federal
28 district where the Interstate Commission has its offices, to enforce
29 compliance with the provisions of the compact, its duly promulgated rules
30 and by-laws, against any compacting state in default. In the event judicial
31 enforcement is necessary, the prevailing party shall be awarded all costs of
32 such litigation including reasonable attorneys fees.

33 Section (d) Dissolution of Compact

34 (1) The compact dissolves effective upon the date of the withdrawal
35 or default of the compacting state, which reduces membership in the
36 compact to one compacting state.

37 (2) Upon the dissolution of this compact, the compact becomes null
38 and void and shall be of no further force or effect, and the business and
39 affairs of the Interstate Commission shall be concluded and any surplus
40 funds shall be distributed in accordance with the by-laws.

41 ARTICLE XII

42 SEVERABILITY AND CONSTRUCTION

43 (a) The provisions of this compact shall be severable, and if any

1 phrase, clause, sentence or provision is deemed unenforceable, the
2 remaining provisions of the compact shall be enforceable.

3 (b) The provisions of this compact shall be liberally construed to
4 effectuate its purposes.

5 ARTICLE XIII

6 BINDING EFFECT OF COMPACT AND OTHER LAWS

7 Section (a) Other Laws

8 (1) Nothing herein prevents the enforcement of any other law of a
9 compacting state that is not inconsistent with this compact.

10 (2) All compacting states' laws other than state constitutions and
11 other interstate compacts conflicting with this compact are superseded to
12 the extent of the conflict.

13 Section (b) Binding Effect of the Compact

14 (1) All lawful actions of the Interstate Commission, including all
15 rules and by-laws promulgated by the Interstate Commission, are binding
16 upon the compacting states.

17 (2) All agreements between the Interstate Commission and the
18 compacting states are binding in accordance with their terms.

19 (3) Upon the request of a party to a conflict over meaning or
20 interpretation of Interstate Commission actions, and upon a majority vote
21 of the compacting states, the Interstate Commission may issue advisory
22 opinions regarding such meaning or interpretation.

23 (4) In the event any provision of this compact exceeds the
24 constitutional limits imposed on the legislature of any compacting state,
25 the obligations, duties, powers or jurisdiction sought to be conferred by
26 such provision upon the Interstate Commission shall be ineffective and
27 such obligations, duties, powers or jurisdiction shall remain in the
28 compacting state and shall be exercised by the agency thereof to which
29 such obligations, duties, powers or jurisdiction are delegated by law in
30 effect at the time this compact becomes effective.

31 New Sec. 68. The compact enacted pursuant to section 67, and
32 amendments thereto, shall take effect and be in force from and after the
33 later of July 1, 2014, or upon enactment into law by the 35th state and its
34 publication in the statute book.

35 New Sec. 69. The governor shall designate an officer who shall be the
36 interstate compact for juveniles compact administrator. The compact
37 administrator shall serve subject to the pleasure of the governor. The
38 compact administrator shall cooperate with all departments, agencies and
39 officers of this state and its subdivisions in facilitating the proper
40 administration of the compact or of any supplementary agreement or
41 agreements entered into by this state hereunder.

42 New Sec. 70. (a) Subject to the availability of funds in the permanent
43 families account of the family and children investment fund for citizen

1 review boards, there shall be citizen review boards in every county.

2 (b) The county commission of each county shall appoint three to
3 seven citizens from the community to serve on each citizen review board.
4 Such members shall represent the various socioeconomic and ethnic
5 groups of the community, and shall have a special interest in children.
6 Each county commission may also appoint alternates when necessary.

7 (c) The term of appointment shall be one year and members may be
8 reappointed up to four years.

9 (d) Members shall serve without compensation but may be
10 reimbursed for mileage for out-of-county reviews.

11 (e) Each citizen review board shall meet monthly if the number of
12 cases to review requires such meetings and upon an emergency basis.

13 (f) Members and alternates appointed to citizen review boards shall
14 receive at least six hours of training through the office of attorney general
15 before starting to review cases.

16 New Sec. 71. (a) The citizen review board shall have the duty,
17 authority and power to:

18 (1) Review any case of a child referred to them, and such additional
19 cases as the commission deems appropriate, or a child who has been
20 adjudicated a child in need of care; receive verbal information from all
21 interested persons with pertinent knowledge of the case; and have access
22 to materials contained in the court's files on the case;

23 (2) determine the progress of the case;

24 (3) suggest an alternative case goal if progress has been insufficient;
25 and

26 (4) make recommendations to the judge regarding further actions on
27 the case.

28 (b) The initial review by the citizen review board shall take place any
29 time after a petition is filed.

30 (c) In any case referred to a citizen review board, the court shall
31 conduct a hearing at least once each year.

32 (d) The judge shall use the citizen review board recommendations in
33 making any authorized dispositional order and shall incorporate the citizen
34 review board's recommendations into the order.

35 (e) Three members of the citizen review board shall be present to
36 review a case.

37 (f) The court shall provide a place for the reviews to be held. The
38 citizen review board members shall travel to the family residence of the
39 child being reviewed to hold the review.

40 (g) Citizen review boards shall conduct hearings to review the status
41 of a child by referral or notice of the parents or the courts.

42 (h) Each citizen review board shall have the authority to investigate
43 and compel testimony by subpoena to allow for independent fact-finding

1 on any case brought before them.

2 New Sec. 72. (a) *Confidentiality requirements.* In order to protect the
3 privacy of children who are the subject of a child in need of care record or
4 report, the records identified in this section shall be confidential and shall
5 be disclosed, except as provided in sections 73 through 76, and
6 amendments thereto. Confidential records that are disclosed pursuant to
7 sections 73 through 76, and amendments thereto, may be further disclosed
8 to persons or entities authorized to receive them as provided in those
9 sections, or by being presented as admissible evidence.

10 (1) *Court records.* Court records shall include both the official file
11 and the social file.

12 (A) *Official file.* The official file of proceedings pursuant to this code
13 shall consist of the affidavit filed by the secretary, pleadings, process,
14 service of process, orders, writs and journal entries reflecting hearings held
15 and judgments and decrees entered by the court. The official file shall be
16 kept with the records of the court.

17 (B) *Social file.* The social file of proceedings pursuant to this code
18 shall consist of affidavits filed with the district or county attorney, reports
19 and information received by the court, other than the official file.

20 (2) *Agency records.* Agency records shall consist of all records and
21 reports in the possession or control of the secretary or any agent of the
22 secretary or of a juvenile intake and assessment agency concerning
23 children alleged or adjudicated to be in need of care, including the
24 affidavit filed with the district or county attorney.

25 (3) *Law enforcement records.* Law enforcement records shall consist
26 of all records and reports in the possession of a law enforcement agency
27 concerning children alleged or adjudicated to be in need of care, including
28 the removal affidavit and shall, to the extent practicable, be kept separate
29 from other records held by a law enforcement agency.

30 (b) *Penalties for improper disclosure of confidential records.* No
31 individual, association, partnership, corporation or other entity shall
32 willfully or knowingly disclose, permit or encourage disclosure of the
33 contents of records or reports in violation of the confidentiality
34 requirements of this section. The court in a child in need of care
35 proceeding may impose a civil penalty of up to \$1,000 on any person or
36 entity that violates this section. Violation of this section is a class A
37 nonperson misdemeanor.

38 (c) *Risk of harm to child or others.* Access to or disclosure of
39 information pursuant to sections 73 through 76, and amendments thereto,
40 is not required if the person or entity in possession of a record or report has
41 reason to believe the person requesting such information may harm a child
42 or other person as a result of such access or disclosure. The court shall not
43 enter an order compelling or prohibiting access to, or disclosure of

1 information to a parent.

2 New Sec. 73. To facilitate investigation and ensure the provision of
3 necessary services to children who may be in need of care and such
4 children's families, the following persons and entities with responsibilities
5 concerning a child who is alleged or adjudicated to be in need of care shall
6 freely exchange information:

- 7 (a) The secretary.
- 8 (b) The secretary of corrections.
- 9 (c) The law enforcement agency receiving such report.
- 10 (d) Members of a court appointed multidisciplinary team.
- 11 (e) An entity mandated by federal law or an agency of any state
12 authorized to receive and investigate reports of a child known or suspected
13 to be in need of care.
- 14 (f) A military enclave or Indian tribal organization authorized to
15 receive and investigate reports of a child known or suspected to be in need
16 of care.
- 17 (g) A county or district attorney with responsibility for filing a
18 petition pursuant to section 32, and amendments thereto.
- 19 (h) A court services officer who has taken a child into custody
20 pursuant to section 33, and amendments thereto.
- 21 (i) An intake and assessment worker.
- 22 (j) Any community corrections program which has the child under
23 court ordered supervision.
- 24 (k) The department of health and environment or persons authorized
25 by the department of health and environment pursuant to K.S.A. 65-512,
26 and amendments thereto, for the purpose of carrying out responsibilities
27 relating to licensure or registration of child care providers as required by
28 article 5 of chapter 65 of the Kansas Statutes Annotated, and amendments
29 thereto.

30 New Sec. 74. (a) *Access to the official file.* The following persons or
31 entities shall have access to the official file of a child in need of care
32 proceeding pursuant to this code:

- 33 (1) The court having jurisdiction over the proceedings, including the
34 presiding judge and any court personnel designated by the judge.
- 35 (2) The parties to the proceedings and their attorneys.
- 36 (3) The guardian ad litem for a child who is the subject of the
37 proceeding.
- 38 (4) A court appointed special advocate for a child who is the subject
39 of the proceeding or a paid staff member of a court appointed special
40 advocate program.
- 41 (5) Any individual, or any public or private agency or institution,
42 having custody of the child under court order or providing educational,
43 medical or mental health services to the child or any placement provider or

1 potential placement provider as determined by the secretary or court
2 services officer.

3 (6) A citizen review board.

4 (7) The secretary of corrections, or the secretary's designee.

5 (8) Any other person when authorized by a court order, subject to any
6 conditions imposed by the order.

7 (9) The commission on judicial performance in the discharge of the
8 commission's duties pursuant to article 32 of chapter 20 of the Kansas
9 Statutes Annotated, and amendments thereto.

10 (b) *Access to the social file.* The following persons or entities shall
11 have access to the social file of a child in need of care proceeding pursuant
12 to this code:

13 (1) The court having jurisdiction over the proceeding, including the
14 presiding judge and any court personnel designated by the judge.

15 (2) The attorney for a party to the proceeding or the person or persons
16 designated by an Indian tribe that is a party.

17 (3) The guardian ad litem for a child who is the subject of the
18 proceeding.

19 (4) A court appointed special advocate for a child who is the subject
20 of the proceeding or a paid staff member of a court appointed special
21 advocate program.

22 (5) A citizen review board.

23 (6) The secretary of corrections, or the secretary's designee.

24 (7) A parent or other person responsible for the welfare of a child, or
25 such person's legal representative.

26 (8) Any other person when authorized by a court order, subject to any
27 conditions imposed by the order.

28 (c) *Preservation of records.* The Kansas state historical society shall
29 be allowed to take possession for preservation in the state archives of any
30 court records related to proceedings under the Kansas code for care of
31 children whenever such records otherwise would be destroyed. No such
32 records in the custody of the Kansas state historical society shall be
33 disclosed directly or indirectly to anyone for 20 years after creation of the
34 records, except as provided in subsections (a) and (b). Pursuant to
35 subsections (a)(8) and (b)(8), a judge of the district court shall allow
36 inspection for research purposes of any court records in the custody of the
37 Kansas state historical society related to proceedings under this code.

38 New Sec. 75. (a) *Principle of appropriate access.* Information
39 contained in confidential agency records concerning a child alleged or
40 adjudicated to be in need of care may be disclosed as provided in this
41 section. Disclosure shall in all cases be guided by the principle of
42 providing access only to persons or entities with a need for information
43 that is directly related to achieving the purposes of this code.

1 (b) *Free exchange of information.* Pursuant to section 73, and
2 amendments thereto, the juvenile intake and assessment agencies shall
3 participate in the free exchange of information concerning a child who is
4 alleged or adjudicated to be in need of care.

5 (c) *Necessary access.* The following persons or entities shall have
6 access to information from agency records. Access shall be limited to
7 information reasonably necessary to carry out their lawful responsibilities,
8 to maintain their personal safety and the personal safety of individuals in
9 their care, or to educate, diagnose, treat, care for or protect a child alleged
10 to be in need of care. Information authorized to be disclosed pursuant to
11 this subsection shall not contain information which identifies a reporter of
12 a child who is alleged or adjudicated to be a child in need of care.

13 (1) A child named in the report or records, a guardian ad litem
14 appointed for the child and the child's attorney.

15 (2) A parent or other person responsible for the welfare of a child, or
16 such person's legal representative.

17 (3) A court-appointed special advocate for a child, a citizen review
18 board or other advocate which reports to the court.

19 (4) A person licensed to practice the healing arts or mental health
20 profession in order to diagnose, care for, treat or supervise: (A) A child
21 whom such service provider reasonably suspects may be in need of care;
22 (B) a member of the child's family; or (C) a person who allegedly abused
23 or neglected the child.

24 (5) A person or entity licensed or registered by the secretary of health
25 and environment or approved by the secretary for children and families to
26 care for, treat or supervise a child in need of care.

27 (6) A coroner or medical examiner when such person is determining
28 the cause of death of a child.

29 (7) The state child death review board established under K.S.A. 22a-
30 243, and amendments thereto.

31 (8) An attorney for a private party who files a petition pursuant to
32 subsection (b) of section 83, and amendments thereto.

33 (9) A foster parent, prospective foster parent, permanent custodian,
34 prospective permanent custodian, adoptive parent or prospective adoptive
35 parent. In order to assist such persons in making an informed decision
36 regarding acceptance of a particular child, to help the family anticipate
37 problems which may occur during the child's placement, and to help the
38 family meet the needs of the child in a constructive manner, the secretary
39 shall seek and shall provide the following information to such persons as
40 the information becomes available to the secretary:

41 (A) Strengths, needs and general behavior of the child;

42 (B) circumstances which necessitated placement;

43 (C) information about the child's family and the child's relationship to

1 the family which may affect the placement;

2 (D) important life experiences and relationships which may affect the
3 child's feelings, behavior, attitudes or adjustment;

4 (E) medical history of the child, including third-party coverage which
5 may be available to the child; and

6 (F) education history, to include present grade placement, special
7 strengths and weaknesses.

8 (10) The state protection and advocacy agency as provided by
9 subsection (a)(10) of K.S.A. 65-5603 or subsection (a)(2)(A) and (B) of
10 K.S.A. 74-5515, and amendments thereto.

11 (11) Any educational institution to the extent necessary to enable the
12 educational institution to provide the safest possible environment for its
13 pupils and employees.

14 (12) Any educator to the extent necessary to enable the educator to
15 protect the personal safety of the educator and the educator's pupils.

16 (13) Any other federal, state or local government executive branch
17 entity or any agent of such entity, having a need for such information in
18 order to carry out such entity's responsibilities under the law to protect
19 children from abuse and neglect.

20 (d) *Specified access.* The following persons or entities shall have
21 access to information contained in agency records as specified.
22 Information authorized to be disclosed pursuant to this subsection shall not
23 contain information which identifies a reporter of a child who is alleged or
24 adjudicated to be a child in need of care.

25 (1) Information from confidential agency records of the department
26 for children and families, a law enforcement agency or any juvenile intake
27 and assessment worker of a child alleged or adjudicated to be in need of
28 care shall be available to members of the standing house or senate
29 committee on judiciary, house committee on corrections and juvenile
30 justice, house committee on appropriations, senate committee on ways and
31 means, legislative post audit committee and any joint committee with
32 authority to consider children's and families' issues, when carrying out
33 such member's or committee's official functions in accordance with K.S.A.
34 75-4319, and amendments thereto, in a closed or executive meeting.
35 Except in limited conditions established by $\frac{2}{3}$ of the members of such
36 committee, records and reports received by the committee shall not be
37 further disclosed. Unauthorized disclosure may subject such member to
38 discipline or censure from the house of representatives or senate. The
39 secretary for children and families shall summarize the outcome of
40 department actions regarding a child alleged to be a child in need of care
41 in information available to members of such committees.

42 (2) The secretary for children and families shall summarize the
43 outcome of department actions regarding a child alleged to be a child in

1 need of care to a person having made such report.

2 (3) Information from confidential reports or records of a child alleged
3 or adjudicated to be a child in need of care shall be disclosed to the public
4 when:

5 (A) The individuals involved or their representatives have given
6 express written consent; or

7 (B) the investigation of the abuse or neglect of the child or the filing
8 of a petition alleging a child to be in need of care has become public
9 knowledge, except that the agency shall limit disclosure to confirmation of
10 procedural details relating to the handling of the case by professionals.

11 (e) *Court order*: Notwithstanding the provisions of this section, a
12 court of competent jurisdiction, after in camera inspection, shall order
13 disclosure of confidential agency records pursuant to a determination that
14 the disclosure is the least detrimental alternative for the child who is the
15 subject of the reports or that the records are necessary for the proceedings
16 of the court and otherwise admissible as evidence. The court shall specify
17 the terms of disclosure and impose appropriate limitations.

18 (f) (1) Notwithstanding any other provision of law to the contrary,
19 except as provided in paragraph (4), in the event that child abuse or
20 neglect results in a child fatality or near fatality, reports or records of a
21 child alleged or adjudicated to be in need of care received by the secretary,
22 a law enforcement agency or any juvenile intake and assessment worker
23 shall become a public record and subject to disclosure pursuant to K.S.A.
24 45-215, and amendments thereto.

25 (2) Within seven days of receipt of a request in accordance with the
26 procedures adopted under K.S.A. 45-220, and amendments thereto, the
27 secretary shall notify any affected individual that an open records request
28 has been made concerning such records. The secretary or any affected
29 individual may file a motion requesting the court to prevent disclosure of
30 such record or report, or any select portion thereof. If the affected
31 individual does not file such motion within seven days of notification, and
32 the secretary has not filed a motion, the secretary shall release the reports
33 or records. If such motion is filed, the court shall consider the effect such
34 disclosure may have upon an ongoing criminal investigation, a pending
35 prosecution, or the privacy of the child, if living, or the child's siblings,
36 parents or guardians. The court shall make written findings of law on the
37 record justifying the closing of the records and shall provide a copy of the
38 journal entry to the affected parties and the individual requesting
39 disclosure pursuant to the Kansas open records act, K.S.A. 45-215 et seq.,
40 and amendments thereto.

41 (3) For reports or records requested pursuant to this subsection, the
42 time limitations specified in this subsection shall control to the extent of
43 any inconsistency between this subsection and K.S.A. 45-218, and

1 amendments thereto. As used in this section, "near fatality" means an act
2 that, as certified by a person licensed to practice medicine and surgery,
3 places the child in serious or critical condition.

4 (4) Nothing in this subsection shall allow the disclosure of reports,
5 records or documents concerning the child and such child's biological
6 parents which were created prior to such child's adoption. Nothing herein
7 is intended to require that an otherwise privileged communication lose its
8 privileged character.

9 New Sec. 76. (a) *Principle of limited disclosure.* Information
10 contained in confidential law enforcement records concerning a child
11 alleged or adjudicated to be in need of care shall be disclosed as provided
12 in this section. Disclosure shall, in all cases, be guided by providing access
13 only to persons or entities with a need for information that is directly
14 related to achieving the purposes of this code.

15 (b) *Free exchange of information.* A law enforcement agency shall
16 participate in the free exchange of information concerning a child who is
17 alleged or adjudicated to be in need of care.

18 (c) *Access to information in law enforcement records.* In order to
19 discharge their official duties, the following persons or entities shall have
20 access to confidential law enforcement records concerning a child alleged
21 or adjudicated to be in need of care.

22 (1) The court having jurisdiction over the proceedings, including the
23 presiding judge and any court personnel designated by the judge.

24 (2) The secretary.

25 (3) The secretary of corrections, or the secretary's designee.

26 (4) Law enforcement officers or county or district attorneys or their
27 staff.

28 (5) Any juvenile intake and assessment worker.

29 (6) The attorney for a party to the proceeding or the person or persons
30 designated by an Indian tribe that is a party.

31 (7) The guardian ad litem for a child who is the subject of the
32 proceeding.

33 (8) A court-appointed special advocate for a child who is the subject
34 of the proceeding or a paid staff member of a court-appointed special
35 advocate program.

36 (9) A citizen review board.

37 (10) A parent or other person responsible for the welfare of a child, or
38 such person's legal representative.

39 (11) Any other person when authorized by a court order, subject to
40 any conditions imposed by the order.

41 (12) Members of a court-appointed multidisciplinary team.

42 (13) Any other federal, state or local government executive branch
43 entity, or any agent of such entity, having a need for such information in

1 order to carry out such entity's responsibilities under law to protect
2 children from abuse and neglect.

3 (d) *Necessary access.* The following persons or entities shall have
4 access to information from law enforcement records when reasonably
5 necessary to carry out their lawful responsibilities, to maintain their
6 personal safety and the personal safety of individuals in their care, or to
7 educate, diagnose, treat, care for or protect a child alleged or adjudicated
8 to be in need of care. Information authorized to be disclosed in this
9 subsection shall not contain information which identifies a reporter of a
10 child alleged or adjudicated to be a child in need of care.

11 (1) Any individual, or public or private agency authorized by a
12 properly constituted authority to diagnose, care for, treat or supervise a
13 child who is the subject of a report or record of child abuse or neglect,
14 including physicians, psychiatrists, nurses, nurse practitioners,
15 psychologists, licensed social workers, child development specialists,
16 physician assistants, community mental health workers, alcohol and drug
17 abuse counselors, and licensed or registered child care providers.

18 (2) School administrators shall have access to but shall not copy law
19 enforcement records and may disclose information to teachers,
20 paraprofessionals and other school personnel as necessary to meet the
21 educational needs of the child or to protect the safety of students and
22 school employees.

23 (3) The department of health and environment or persons authorized
24 by the department of health and environment for the purposes of carrying
25 out responsibilities relating to licensure or registration of child care
26 providers as required by article 5 of chapter 65 of the Kansas Statutes
27 Annotated, and amendments thereto.

28 (e) *Legislative access.* Information from law enforcement records of a
29 child alleged or adjudicated to be in need of care shall be available to
30 members of the standing house or senate, in a closed or executive meeting.
31 Unauthorized disclosure may subject such member to discipline or censure
32 from the house of representatives or senate.

33 (f) *Court order.* Notwithstanding the provisions of this section, a
34 court of competent jurisdiction, after in camera inspection, may order
35 disclosure of confidential law enforcement records pursuant to a
36 determination that the disclosure is the least detrimental alternative for the
37 child who is the subject of the reports or that the records are necessary for
38 the proceedings of the court and otherwise admissible as evidence. The
39 court shall specify the terms of disclosure and impose appropriate
40 limitations.

41 New Sec. 77. It shall be the duty of the county or district attorney or
42 the county or district attorney's designee to prepare and file the petition
43 alleging a child to be a child in need of care, and to appear at the hearing

1 on the petition and to present evidence as necessary, at all stages of the
2 proceedings, that will aid the court in making appropriate decisions. The
3 county or district attorney or the county or district attorney's designee shall
4 also have the other duties required by this code. Pursuant to a written
5 agreement between the secretary and the county or district attorney, the
6 attorneys for the secretary may perform the duties of the county or district
7 attorney after disposition has been determined by the court.

8 New Sec. 78. (a) The secretary or a law enforcement officer may
9 request disclosure of documents, reports or information in regard to a
10 child, who is the subject of a report of abuse or neglect, by making a
11 written verified application to the district court. Upon a finding by the
12 court that there is clear and convincing evidence to believe the information
13 sought will assist in the investigation of a report of child abuse or neglect,
14 the court may issue a subpoena, subpoena duces tecum or an order for the
15 production of the requested documents, reports or information and
16 directing the documents, reports or information to be delivered to the
17 applicant at a specific time, date and place.

18 (b) The time and date of delivery shall not be sooner than five days
19 after the service of the subpoena or order, including Saturdays, Sundays,
20 holidays and days on which the office of the clerk of the court is not
21 accessible. The court issuing the subpoena or order shall keep all
22 applications filed pursuant to this subsection and a copy of the subpoena or
23 order in a special file maintained for that purpose. Upon receiving service
24 of a subpoena, subpoena duces tecum or an order for production pursuant
25 to this section, the person or agency served shall give oral or written notice
26 of service to any person known to have a right to assert a privilege or
27 assert a right of confidentiality in regard to the documents, reports or
28 information sought at least seven days before the date of delivery.

29 (c) Any parent, child, guardian ad litem, person or entity subpoenaed
30 or subject to an order of production or person or entity who claims a
31 privilege or right of confidentiality may request in writing that the court
32 issuing the subpoena or order of production quash the subpoena, subpoena
33 duces tecum or order for production issued pursuant to this section. The
34 request shall automatically stay the operation of the subpoena, subpoena
35 duces tecum or order for production and the documents, reports or
36 information requested shall not be delivered until the issuing court has
37 held a hearing to determine if the documents, reports or information are
38 subject to the claimed privilege or right of confidentiality, and whether it is
39 the least detrimental alternative for the child for the subpoena or order to
40 produce to be honored. The request to quash shall be filed with the district
41 court issuing the subpoena or order at least 24 hours prior to the specified
42 time and date of delivery, excluding Saturdays, Sundays, holidays or days
43 on which the office of the clerk of the court is not accessible, and a copy of

1 the written request must be given to the person subpoenaed or subject to
2 the order for production at least 24 hours prior to the specified time and
3 date of delivery.

4 New Sec. 79. (a) *Docket fee.* The docket fee for proceedings under
5 this code, if one is assessed as provided in this section, shall be \$34. Only
6 one docket fee shall be assessed in each case. Except as provided further,
7 the docket fee established in this section shall be the only fee collected or
8 moneys in the nature of a fee collected for the docket fee. Such fee shall
9 only be established by an act of the legislature and no other authority is
10 established by law or otherwise to collect a fee. On and after the effective
11 date of this act, the supreme court shall not impose an additional charge to
12 fund the costs of non-judicial personnel.

13 (b) *Expenses.* The expenses for proceedings under this code,
14 including fees, mileage and allowed witnesses and fees and expenses
15 approved by the court for appointed attorneys, shall be paid by the board
16 of county commissioners from the general fund of the county.

17 (c) *Assessment of docket fee and expenses.* (1) *Docket fee.* The docket
18 fee may be assessed or waived by the court conducting the initial
19 dispositional hearing, and the docket fee may be assessed against the
20 complaining witness or person initiating the proceedings or a party or
21 interested party other than the state, a political subdivision of the state, an
22 agency of the state or of a political subdivision of the state, or a person
23 acting in the capacity of an employee of the state or of a political
24 subdivision of the state. Any docket fee received shall be remitted to the
25 state treasurer pursuant to K.S.A. 20-362, and amendments thereto.

26 (2) *Expenses.* Expenses may be assessed against the complaining
27 witness, a person initiating the proceedings, a party or an interested party,
28 other than the state, a political subdivision of the state, an agency of the
29 state or of a political subdivision of the state or a person acting in the
30 capacity of an employee of the state or of a political subdivision of the
31 state. When expenses are recovered from a person against whom they have
32 been assessed the general fund of the county shall be reimbursed in the
33 amount of the recovery. If it appears to the court in any proceedings under
34 this code that expenses were unreasonably incurred at the request of any
35 party the court may assess that portion of the expenses against the party.

36 (d) *Cases in which venue is transferred.* If venue is transferred from
37 one county to another, the court from which the case is transferred shall
38 send to the receiving court a statement of expenses paid from the general
39 fund of the sending county. If the receiving court collects any of the
40 expenses owed in the case, the receiving court shall pay to the sending
41 court an amount proportional to the sending court's share of the total
42 expenses owed to both counties. The expenses of the sending county shall
43 not be an obligation of the receiving county except to the extent that the

1 sending county's proportion of the expenses is collected by the receiving
2 court. All amounts collected shall first be applied toward payment of the
3 docket fee.

4 New Sec. 80. (a) *How paid.* (1) If a child adjudged to be a child in
5 need of care is not eligible for assistance under K.S.A. 39-709, and
6 amendments thereto, expenses for the care and custody of the child shall
7 be paid out of the general fund of the county in which the proceedings are
8 brought. For the purpose of this section, a child who is a nonresident of the
9 state of Kansas or whose residence is unknown shall have residence in the
10 county where the proceedings are instituted.

11 (2) When a law enforcement officer has taken a child into custody as
12 authorized by subsection (b) of section 73, and amendments thereto, and
13 delivered the child to a person or facility designated by the secretary or
14 when custody of a child is awarded to the secretary, the expenses of the
15 care and custody of the child may be paid by the secretary, even though the
16 child does not meet the eligibility standards of K.S.A. 39-709, and
17 amendments thereto.

18 (3) When the custody of a child is awarded to the secretary, the
19 expenses of the care and custody of the child shall not be paid out of the
20 county general fund.

21 (4) Nothing in this section shall be construed to mean that any person
22 shall be relieved of legal responsibility to support a child.

23 (b) *Reimbursement to county general fund.* (1) When expenses for the
24 care and custody of a child adjudged to be a child in need of care have
25 been paid out of the county general fund, the court may fix a time and
26 place for hearing on the question of requiring payment or reimbursement
27 of all or part of the expenses by a person who by law is liable to maintain,
28 care for or support the child.

29 (2) The court, after notice to the person who by law is liable to
30 maintain, care for or support the child, may hear and dispose of the matter
31 and may enter an order relating to payment of expenses for care and
32 custody of the child.

33 (3) The county may bring a separate action against a person who by
34 law is liable to maintain, care for or support a child adjudged to be a child
35 in need of care for the reimbursement of expenses paid out of the county
36 general fund for the care and custody of the child.

37 (c) *Reimbursement to secretary.* (1) When expenses for the care and
38 custody of a child adjudged to be a child in need of care have been paid by
39 the secretary, the secretary may recover the expenses pursuant to K.S.A.
40 39-709, 39-718b or 39-755, and amendments thereto, or as otherwise
41 provided by law, from any person who by law is liable to maintain, care
42 for or support the child.

43 (2) The secretary shall have the power to compromise and settle any

1 claim due or any amount claimed to be due to the secretary from any
2 person who by law is liable to maintain, care for or support the child.

3 New Sec. 81. (a) If the court determines that the information
4 contained in the petition concerning parentage of the child may be
5 incomplete or incorrect, the court shall determine whether the question has
6 been previously adjudicated and whether service of process should be
7 made on some additional person.

8 (b) If it appears that the issue of parentage needs to be adjudicated,
9 the court shall stay child support proceedings, if any are pending in the
10 case, with respect to that alleged parent and child relationship, until the
11 dispute is resolved by agreement, by a separate action under the Kansas
12 parentage act, K.S.A. 2013 Supp. 23-2201 et seq., and amendments
13 thereto.

14 New Sec. 82. (a) A child advocacy center in this state shall:

15 (1) Be a private, nonprofit incorporated agency or a governmental
16 entity.

17 (2) Have a neutral, child-focused facility.

18 (3) Have a minimum designated staff that is supervised and approved
19 by the local board of directors or governmental entity.

20 (4) Provide medical exam services or mental health therapy, or both,
21 on site at the child advocacy center, or provide referrals for medical exams
22 or mental health therapy, or both, to a facility not on the site of the child
23 advocacy center.

24 (5) Provide that child advocacy center employees and volunteers at
25 the center are trained and screened in accordance with K.S.A. 65-516, and
26 amendments thereto.

27 (6) Any child advocacy center within this state that meets the
28 standards prescribed by this section shall be eligible to receive state funds
29 that are appropriated by the legislature.

30 New Sec. 83. (a) Whenever the secretary or any other person files an
31 affidavit and refers a case to the county or district attorney for the purpose
32 of filing a petition alleging that a child is a child in need of care, the
33 county or district attorney shall review the facts, recommendations and any
34 other evidence available and determine if the circumstances warrant filing
35 a petition with the court.

36 (b) Any individual may file a petition alleging a child is a child in
37 need of care and the individual may be represented by the individual's own
38 attorney in the presentation of the case.

39 New Sec. 84. (a) *Filing and contents of petition.* (1) A petition filed to
40 commence an action pursuant to this code shall be filed with the clerk of
41 the district court and shall state, if known:

42 (A) The name, date of birth and residence address of the child;

43 (B) the name and residence address of the child's parents;

1 (C) the name and address of the child's nearest known relative if no
2 parent can be found;

3 (D) the name and residence address of any persons having custody or
4 control of the child; and

5 (E) plainly and concisely in the language of the statutory definition,
6 the basis for the petition.

7 (2) The petition shall also state the specific facts which are relied
8 upon to support the allegation referred to in the preceding paragraph
9 including any known dates, times and locations.

10 (3) The proceedings shall be entitled: "In the least detrimental
11 alternative of _____."

12 (4) The petition shall contain a request that the court find the child to
13 be a child in need of care.

14 (5) The petition shall contain a request that the parent or parents be
15 ordered to pay child support. The request for child support may be omitted
16 with respect to a parent already ordered to pay child support for the child
17 and shall be omitted with respect to one or both parents upon written
18 request of the secretary.

19 (6) If the petition requests custody of the child to the secretary or a
20 person other than the child's parent, the petitioner shall provide an affidavit
21 specifying the efforts made to maintain the family and prevent the transfer
22 of custody, or it shall specify the facts demonstrating that an emergency
23 exists which threatens the safety of the child.

24 (7) If the petition requests removal of the child from the child's home,
25 in addition to the information required by subsection (a)(6), the petition
26 shall specify the facts demonstrating that allowing the child to remain in
27 the home would be contrary to the safety of the child or that placement is
28 the least detrimental alternative for the child and that evidence shows that
29 the child is likely to sustain harm if not removed from the home.

30 (8) The petition shall contain the following statement: "If you do not
31 appear in court the court will be making decisions without your input
32 which could result in:

33 (A) The permanent or temporary removal of the child from the
34 custody of the parent or present legal guardian;

35 (B) an order requiring one or both parents to pay child support until
36 the permanent termination of one or both of the parents' parental rights;

37 (C) the permanent termination of one or both of the parents' parental
38 rights; and

39 (D) the appointment of a permanent custodian for the child.

40 If you cannot attend the hearing you may send a written response to the
41 petition to the clerk of the court."

42 (9) The petition shall contain the following statement: "You may
43 receive further notices of other hearings, proceedings and actions in this

1 case which you may attend. These notices will be sent to you by first class
2 mail to your last known address or an address you provide to the court. It
3 is your responsibility to keep the court informed of your current address."

4 (b) *Motions*. Motions may be made orally or in writing. The motion
5 shall state with particularity the grounds for the motion and shall state the
6 relief or order sought.

7 New Sec. 85. (a) Upon the filing of a petition under this code the
8 court shall proceed by one of the following methods:

9 (1) The court shall issue summons pursuant to section 86, and
10 amendments thereto, setting the matter for hearing within 30 days of the
11 date the petition is filed. The summons, with a copy of the petition
12 attached, shall be served pursuant to section 87, and amendments thereto.

13 (2) If the child has been taken into temporary police custody under
14 the provisions and a temporary custody hearing is held as required, a copy
15 of the petition shall be served at the hearing on each party and interested
16 party in attendance and a record of service made a part of the proceedings.
17 The court shall announce the time of the next hearing. Process shall be
18 served on any party or interested party not at the temporary custody
19 hearing. Upon the written request of the petitioner or the county or district
20 attorney, separate or additional summons shall be issued to any party and
21 interested party.

22 (b) If the petition requests custody to the secretary, the court shall
23 cause a copy of the petition to be provided to the secretary upon filing.

24 New Sec. 86. (a) *Persons to be served*. The summons and a copy of
25 the petition shall be served on:

26 (1) The child alleged to be a child in need of care by serving the
27 guardian ad litem appointed for the child;

28 (2) the parents or parent having legal custody or who may be ordered
29 to pay child support by the court;

30 (3) the person with whom the child is residing; and

31 (4) any other person designated by the county or district attorney.

32 (b) A copy of the petition and notice of hearing shall be mailed by
33 first class mail to the child's grandparents with whom the child does not
34 reside.

35 New Sec. 87. Summons, notice of hearings and other process may be
36 served by one of the following methods:

37 (a) *Personal and residence service*. Personal and residence service is
38 completed by service in substantial compliance with the provisions of
39 K.S.A. 60-303, and amendments thereto. Personal service upon an
40 individual outside the state shall be made in substantial compliance with
41 the applicable provisions of K.S.A. 60-308, and amendments thereto.

42 (b) *Service by return receipt delivery*. Service by return receipt
43 delivery is completed upon mailing or sending only in accordance with the

1 provisions of subsection (c) of K.S.A. 60-303, and amendments thereto.

2 (c) *First class mail service.* Service may be made by first class mail,
3 addressed to the individual to be served at the usual place of residence of
4 the person with postage prepaid, and is completed upon the person
5 appearing before the court in response thereto. If the person fails to appear,
6 the summons, notice or other process shall be delivered by personal
7 service, residential service, certified mail service or publication service.

8 (d) *Service upon confined parent.* If a parent of a child who is the
9 subject of proceedings under this code is confined in a state or federal
10 penal institution, state or federal hospital or other institution, service shall
11 be made by return receipt delivery to addressee only to both the person in
12 charge of the institution and the confined parent in care of the person in
13 charge of the institution or that person's designee. Personal service on a
14 confined parent who is present in the courtroom cures any defect in notice
15 to the person in charge of the institution.

16 (e) *Service by publication.* If service cannot be completed after due
17 diligence using any other method provided in this section, service may be
18 made by publication in accordance with this subsection. Before service by
19 publication, the petitioner, or someone on behalf of the petitioner, shall file
20 an affidavit which shall state the affiant has made an attempt, but
21 unsuccessful, with due diligence to ascertain the names or residences, or
22 both, of the persons. The notice shall be published once a week for two
23 consecutive weeks in the newspaper authorized to publish legal notices in
24 the county where the petition is filed. If a parent cannot be served by other
25 means and due diligence has revealed with substantial certainty that the
26 parent is residing in a particular locality, publication shall also be in a
27 newspaper authorized to publish legal notices in that locality.

28 New Sec. 88. Proof of service shall be made as follows:

29 (a) *Personal or residential service.* (1) Every officer to whom
30 summons or other process is delivered for service within the state shall
31 make written report of the place, manner and date of service of the
32 process.

33 (2) Every officer to whom summons or other process shall be
34 delivered for service outside this state shall make written report of the
35 place, manner and time of service.

36 (3) If the process is, by order of the court, delivered to a person other
37 than an officer for service, that person shall report the place, manner and
38 time of service by affidavit.

39 (b) *Service by mail.* The clerk or a deputy clerk shall make a written
40 report of service by mail.

41 (c) *Publication service.* Service by publication shall be reported by an
42 affidavit showing the dates upon and the newspaper in which the notice
43 was published. A copy of the published notice shall be attached to the

1 affidavit.

2 (d) *Amendment of report.* The judge may allow an amendment of a
3 report of service at any time and upon terms as are deemed just to
4 correctly reflect the true manner of service.

5 New Sec. 89. (a) *Proceedings upon filing.* Upon the filing of a
6 subsequent pleading, other than a petition, indicating the necessity for a
7 hearing, the court shall fix the time and place for the hearing.

8 (b) *Notice.* The notice of hearing shall be given by the clerk, unless
9 otherwise ordered by the court. The notice shall be dated the day it is
10 issued, contain the name of the court and the caption in the case.

11 (c) *Notification by first class mail.* Unless other provisions of this
12 code expressly require service of process, notice of motions and other
13 pleadings filed subsequent to the petition in connection with the case and
14 any hearings to be held on such motions or other pleadings may be
15 provided by first class mail, postage prepaid, to any party or interested
16 party who has been served in accordance with section 87, and amendments
17 thereto. Such notice shall be sent to the last address provided to the court
18 by the party or interested party in question. Failure to appear shall not
19 invalidate notice by first class mail. Notice by mail is not required if the
20 court orally notifies a party or interested party of the time and place of the
21 hearing.

22 New Sec. 90. (a) The court, upon verified application, may issue an
23 order ex parte directing that a child be held in protective custody and, if
24 the child has not been taken into custody, an order directing that the child
25 be taken into custody. The application shall state for each child:

26 (1) The applicant's belief that the child is a child in need of care;

27 (2) that the child is likely to sustain harm if not immediately removed
28 from the home;

29 (3) that allowing the child to remain in the home is contrary to the
30 safety of the child; and

31 (4) the facts relied upon to support the application, including efforts
32 known to the applicant to maintain the family unit and prevent the
33 unnecessary removal of the child from the child's home, or the specific
34 facts supporting that an emergency exists which threatens the safety of the
35 child.

36 (b) (1) The order of protective custody shall be issued only after the
37 court has determined from the facts presented that there is clear and
38 convincing evidence to believe the allegations in the application are true.
39 The order shall remain in effect until the temporary custody hearing
40 provided for in section 91, and amendments thereto, unless earlier
41 rescinded by the court.

42 (2) No child shall be held in temporary police custody for more than
43 72 hours, including Saturdays, Sundays, legal holidays and days on which

1 the office of the clerk of the court is not accessible, unless within the 72-
2 hour period a determination is made as to the necessity for temporary
3 custody in a temporary custody hearing by the court. The time spent in
4 custody pursuant to section 34, and amendments thereto, shall be included
5 in calculating the 72-hour period. Nothing in this subsection shall be
6 construed to mean that the child must remain in temporary police custody
7 for 72 hours. If the court places a child in the temporary custody of the
8 secretary, the secretary shall allow daily supervised visit between the child
9 and the parent or parents within such time period as the child is in
10 temporary custody.

11 (c) (1) Whenever the court determines the necessity for an order of
12 protective custody, the court may place the child in the protective custody
13 of:

14 (A) A parent or other person having custody of the child and may
15 enter a restraining order pursuant to subsection (e);

16 (B) a person, other than the parent or other person having custody,
17 who shall not be required to be licensed under article 5 of chapter 65 of the
18 Kansas Statutes Annotated;

19 (C) a youth residential facility;

20 (D) a shelter facility; or

21 (E) the secretary, if the child is 15 years of age or younger, or 16 or
22 17 years of age if the child has no identifiable parental or family resources
23 or shows signs of physical, mental or sexual abuse.

24 (2) If the secretary presents the court with a plan to provide services
25 to a child or family which the court finds will assure the safety of the
26 child, the court may only place the child in the protective custody of the
27 secretary until the court finds the services are in place. When the child is
28 placed in the protective custody of the secretary, the secretary shall have
29 the discretionary authority to place the child with a parent or to make other
30 suitable placement for the child.

31 (d) The order of protective custody shall be served pursuant to
32 subsection (a) of section 87, and amendments thereto, on the child's
33 parents and any other person having legal custody of the child. The order
34 shall prohibit the removal of the child from the court's jurisdiction without
35 the court's permission.

36 (e) If the court issues an order of protective custody, the court may
37 also enter an order restraining any alleged perpetrator of physical, sexual
38 or mental abuse of the child from residing in the child's home; visiting,
39 contacting, harassing or intimidating the child, other family member or
40 witness; or attempting to visit, contact, harass or intimidate the child, other
41 family member or witness. Such restraining order shall be served by
42 personal service pursuant to subsection (a) of section 87, and amendments
43 thereto, on any alleged perpetrator to whom the order is directed.

1 (f) (1) The court shall not enter the initial order removing a child
2 from the custody of a parent pursuant to this section unless the court first
3 finds clear and convincing evidence that: (A) (i) The child is likely to
4 sustain harm if not immediately removed from the home; or

5 (ii) allowing the child to remain in home is contrary to the safety of
6 the child; or

7 (B) reasonable efforts have been made to maintain the family unit and
8 prevent the unnecessary removal of the child from the child's home or that
9 an emergency exists which threatens the safety of the child.

10 (2) Such findings shall be included in any order entered by the court.
11 If the child is placed in the custody of the secretary, the court shall provide
12 the secretary with a written copy of any orders entered upon making the
13 order.

14 New Sec. 91. (a) Upon notice and hearing, the court shall issue an
15 order directing who shall have temporary custody and may modify the
16 order during the pendency of the proceedings as will be the least
17 detrimental alternative to the child's welfare.

18 (b) A hearing pursuant to this section shall be held within 72 hours,
19 including Saturdays, Sundays, legal holidays and days on which the office
20 of the clerk of the court is not accessible, following a child having been
21 taken into protective custody.

22 (c) Whenever it is determined that there is evidence of abuse or
23 neglect to prove that a temporary custody hearing is required, the court
24 shall immediately set the time and place for the hearing. Notice of a
25 temporary custody hearing shall be given to all parties and interested
26 parties.

27 (d) Notice of the temporary custody hearing shall be given at least 72
28 hours prior to the hearing. The court may continue the hearing to afford the
29 72 hours prior notice or, with the consent of the party or interested party,
30 proceed with the hearing at the designated time. If an order of temporary
31 custody is entered and the parent or other person having custody of the
32 child has not been notified of the hearing, did not appear or waive
33 appearance and requests a rehearing, the court shall rehear the matter
34 without unnecessary delay.

35 (e) Oral notice may not be used for giving notice of a temporary
36 custody hearing where there is insufficient time to give written notice. Oral
37 notice is completed upon filing a certificate of oral notice.

38 (f) The court may enter an order of temporary custody after
39 determining there is clear and convincing evidence to believe that the: (1)
40 Child is dangerous to self or to others; (2) child is not likely to be available
41 within the jurisdiction of the court for future proceedings; or (3) health or
42 welfare of the child may be endangered without further care. Nothing in
43 this clause may circumvent a parent's due process or rights to their

1 children.

2 (g) (1) Whenever the court determines the necessity for an order of
3 temporary custody the court may place the child in the temporary custody
4 of:

5 (A) A parent, grandparent or other person having custody of the child
6 and may enter a restraining order pursuant to subsection (h);

7 (B) a person, other than the parent or other person having custody,
8 who shall not be required to be licensed under article 5 of chapter 65 of the
9 Kansas Statutes Annotated, and amendments thereto;

10 (C) a youth residential facility;

11 (D) a shelter facility; or

12 (E) the secretary, if the child is 15 years of age or younger, or 16 or
13 17 years of age if the child has no identifiable parental or family resources
14 or shows signs of physical, mental or sexual abuse.

15 (2) If the secretary presents the court with a plan to provide services
16 to a child or family which the court finds will assure the safety of the
17 child, the court may only place the child in the temporary custody of the
18 secretary until the court finds the services are in place. The court shall
19 have the authority to require any person or entity agreeing to participate in
20 the plan to perform as set out in the plan. When the child is placed in the
21 temporary custody of the secretary, the secretary shall have the
22 discretionary authority to place the child with a parent or to make other
23 suitable placement for the child. The order of temporary custody shall
24 remain in effect until modified or rescinded by the court or an adjudication
25 order is entered but not exceeding 60 days, unless good cause is shown
26 and stated on the record.

27 (h) If the court issues an order of temporary custody, the court may
28 also enter an order restraining any alleged perpetrator of physical, sexual
29 or mental abuse of the child from residing in the child's home; visiting,
30 contacting, harassing or intimidating the child; or attempting to visit,
31 contact, harass or intimidate the child, other family members or witnesses.
32 Such restraining order shall be served by personal service pursuant to
33 subsection (a) of section 87, and amendments thereto, on any alleged
34 perpetrator to whom the order is directed.

35 (i) (1) The court shall not enter the initial order removing a child from
36 the custody of a parent pursuant to this section unless the court first finds
37 from clear and convincing evidence that: (A) (i) The evidence shows that
38 the child is likely to sustain harm if not immediately removed from the
39 home;

40 (ii) allowing the child to remain in home is contrary to the safety of
41 the child; or

42 (iii) immediate placement of the child is the least detrimental
43 alternative for the child; and

1 (B) all reasonable efforts have been made to maintain the family unit
2 and prevent the unnecessary removal of the child from the child's home or
3 that an emergency exists which threatens the safety of the child. This
4 includes providing services, due process, evidentiary hearing with
5 witnesses, if a jury trial has been requested and the jury has made its
6 findings.

7 (2) Such findings shall be included in any order entered by the court.
8 If the child is placed in the custody of the secretary, upon making the order
9 the court shall provide the secretary with a written copy.

10 (j) If the court enters an order of temporary custody that provides for
11 placement of the child with a person other than the parent, the court may
12 make a child support determination pursuant to section 102, and
13 amendments thereto.

14 New Sec. 92. (a) At any time after filing a petition, but prior to an
15 adjudication, the court may enter an order for continuance and informal
16 supervision without an adjudication. Upon granting the continuance, the
17 court shall include in the order any conditions with which the parties and
18 interested parties are expected to comply and provide the parties and
19 interested parties with a copy of the order. The conditions shall include
20 appropriate dispositional alternatives authorized by section 102, and
21 amendments thereto.

22 (b) An order for informal supervision may remain in force for a
23 period of up to six months and shall not be extended. For a child under an
24 order for informal supervision who remains in the custody of such child's
25 parent, this may be extended if no party objects, upon hearing, and shall
26 not continue for more than an additional six month period, with reviews by
27 the court occurring at least every two months. The parent under the order
28 of informal supervision will receive a receipt of payment from the
29 individual or service provider and must be calculated into the child support
30 worksheet as miscellaneous expenses.

31 (c) The court after notice and a hearing may revoke or modify the
32 order with respect to a party or interested party upon a showing that the
33 party or interested party, being subject to the order for informal
34 supervision, has substantially failed to comply with the terms of the order,
35 or that modification would be the least detrimental alternative for the
36 child. Upon revocation, proceedings shall resume pursuant to this code.

37 (d) Persons subject to the order for informal supervision who
38 successfully complete the terms and period of supervision shall not again
39 be proceeded against in any court based solely upon the allegations in the
40 original petition and the proceedings shall be dismissed.

41 (e) If the court issues an order for informal supervision pursuant to
42 this section, the court may also enter an order restraining any alleged
43 perpetrator of physical or mental abuse or sexual abuse of the child from

1 residing in the child's home, visiting, contacting, harassing or intimidating
2 the child, other family member or witness; or attempting to visit, contact,
3 harass or intimidate the child, other family member or witness. The
4 restraining order shall be served by personal service pursuant to section
5 87, and amendments thereto, on any alleged perpetrator to whom the order
6 is directed.

7 (f) Lack of service on a parent shall not preclude an informal
8 supervision under the provisions of this section. If an order of informal
9 supervision is entered which affects change in custody, any parent not
10 served pursuant to section 87, and amendments thereto, who has not
11 consented to the informal supervision, may request reconsideration of the
12 order of informal supervision. The court shall hear the request without
13 unnecessary delay. If the informal supervision order affects a change in
14 custody, efforts to accomplish service pursuant to section 87, and
15 amendments thereto, shall continue.

16 New Sec. 93. All proceedings under this code shall be disposed of
17 without unnecessary delay. Continuances shall not be granted unless good
18 cause is shown.

19 New Sec. 94. (a) *Adjudication.* Proceedings prior to and including
20 adjudication under this code shall be open to attendance by any person
21 unless the court determines that closed proceedings or the exclusion of that
22 person would be the least detrimental alternative for the child or is
23 necessary to protect the privacy rights of the parents.

24 (1) The court may not exclude the guardian ad litem, parties and
25 interested parties.

26 (2) Members of the news media shall comply with supreme court rule
27 10.01.

28 (b) *Disposition.* Proceedings pertaining to the disposition of a child
29 adjudicated to be in need of care shall be closed to all persons except the
30 parties, the guardian ad litem, interested parties and their attorneys,
31 officers of the court, a court appointed special advocate and the custodian.

32 (1) Other persons may be permitted to attend with the consent of the
33 parties or by order of the court.

34 (2) The court may exclude any person if the court determines that
35 such person's exclusion would be beneficial to the child or the conduct of
36 the proceedings.

37 (c) Notwithstanding subsections (a) and (b) of this section, the court
38 shall permit the attendance at the proceedings of up to two people
39 designated by the parent of the child.

40 The court may remove the parent's ally or allies from a proceeding if
41 such ally becomes disruptive in the present proceeding or has been found
42 disruptive in a prior proceeding.

43 (d) *Preservation of confidentiality.* If information required to be kept

1 confidential by section 72, and amendments thereto, is to be introduced
2 into evidence and there are persons in attendance who are not authorized
3 to receive the information, the court may exclude those persons during the
4 presentation of the evidence or conduct an in camera inspection of the
5 evidence.

6 New Sec. 95. (a) In any proceedings under this code, parents, persons
7 with whom the child has been residing pursuant to subsection (d) of
8 section 43, and amendments thereto, and guardians ad litem may stipulate
9 or enter no contest statements to all or part of the allegations in the
10 petition.

11 (b) Prior to the acceptance of any stipulation or no contest statement,
12 other than to names, ages, parentage or other preliminary matters, the court
13 shall ask each of the persons listed in subsection (a) the following
14 questions:

15 (1) Do you understand that you have a right to a trial on the
16 allegations contained in the petition?

17 (2) Do you understand that you may be represented by an attorney
18 and, if you are a parent and financially unable to employ an attorney, the
19 court will appoint an attorney for you, if you so request?

20 (3) One of the following: (A) Do you understand that a stipulation is
21 an admission that the statements in the petition are true or (B) Do you
22 understand that a no contest statement neither admits nor denies the
23 statement in the petition but allows the court to find that the statements in
24 the petition are true?

25 (4) Do you understand that, if the court accepts your stipulation or no
26 contest statement, you will be able to appeal that finding, the court may
27 find the child to be a child in need of care and the court will then make
28 further orders as to the care, custody and supervision of the child?

29 (5) Do you understand that, if the court finds the child to be a child in
30 need of care, the court is bound by any agreement or recommendation of
31 the parties as to disposition and placement of the child?

32 (c) Before accepting a stipulation the court shall find that there is a
33 factual basis for the stipulation.

34 (d) Before an adjudication based on a no contest statement, the court
35 shall find from a proffer of evidence that there is a factual basis.

36 (e) In proceedings other than termination of parental rights
37 proceedings under this code if all persons listed in subsection (a) do not
38 stipulate or enter no contest statements, the court shall hear evidence as to
39 those persons, if they are present. The case may proceed by proffer as to
40 persons not present, unless they appear by counsel and have instructed
41 counsel to object.

42 (f) In evidentiary hearings for termination of parental rights under this
43 code, the case may proceed by proffer as to parties not present, unless they

1 appear by counsel and have instructed counsel to object.

2 New Sec. 96. (a) In all proceedings under this code, the rules of
3 evidence of the code of civil procedure shall apply, except that no evidence
4 relating to the condition of a child shall be excluded solely on the ground
5 that the matter is or may be the subject of a physician-patient privilege,
6 psychologist-client privilege or social worker-client privilege.

7 (b) The judge presiding at all hearings under this code shall not
8 consider or rely upon any report not properly admitted according to the
9 rules of evidence.

10 (c) In any proceeding in which a child less than 13 years of age is
11 alleged to have been physically or mentally abused or neglected or
12 sexually abused, a recording of an oral statement of the child, or of any
13 witness less than 13 years of age, made before the proceeding began, is
14 admissible in evidence if:

15 (1) The court determines that the time, content and circumstances of
16 the statement provide sufficient indicia of reliability;

17 (2) no attorney for any party or interested party is present when the
18 statement is made;

19 (3) the recording is both visual and aural and is recorded on film,
20 videotape or by other electronic means;

21 (4) the recording equipment is capable of making an accurate
22 recording, the operator of the equipment is competent and the recording is
23 accurate and has not been edited or altered;

24 (5) the statement is not made in response to questioning calculated to
25 lead the child to make a particular statement or is clearly shown to be the
26 child's statement and not made solely as a result of a leading or suggestive
27 question;

28 (6) every voice on the recording is identified;

29 (7) the person conducting the interview of the child in the recording is
30 present at the proceeding and is available to testify or be cross-examined
31 by any party or interested party; and

32 (8) each party or interested party to the proceeding is afforded an
33 opportunity to view the recording before it is offered into evidence.

34 (d) On motion of any party to a proceeding pursuant to the code in
35 which a child less than 13 years of age is alleged to have been physically
36 or mentally abused or neglected or sexually abused, the court may order
37 that the testimony of the child, or of any witness less than 13 years of age,
38 be taken:

39 (1) In a room other than the courtroom and be televised by closed-
40 circuit equipment in the courtroom to be viewed by the court and the
41 parties and interested parties to the proceeding; or

42 (2) outside the courtroom and be recorded for showing in the
43 courtroom before the court and the parties and interested parties to the

1 proceeding if:

2 (A) The recording is both visual and aural and is recorded on film,
3 videotape or by other electronic means;

4 (B) the recording equipment is capable of making an accurate
5 recording, the operator of the equipment is competent and the recording is
6 accurate and has not been altered;

7 (C) every voice on the recording is identified; and

8 (D) each party and interested party to the proceeding is afforded an
9 opportunity to view the recording before it is shown in the courtroom.

10 (e) At the taking of testimony under subsection (d):

11 (1) Only an attorney for each party, interested party, the guardian ad
12 litem for the child or other person whose presence would contribute to the
13 welfare and well-being of the child and persons necessary to operate the
14 recording or closed-circuit equipment may be present in the room with the
15 child during the child's testimony;

16 (2) only the attorneys for the parties may question the child; and

17 (3) the persons operating the recording or closed-circuit equipment
18 shall be confined to an adjacent room or behind a screen or mirror that
19 permits such person to see and hear the child during the child's testimony,
20 but does not permit the child to see or hear such person.

21 (f) If the testimony of a child is taken as provided by subsection (d),
22 the child shall not be compelled to testify in court during the proceeding.

23 (g) (1) Any objection to a recording under subsection (d)(2) that such
24 proceeding is inadmissible must be made by written motion filed with the
25 court at least seven days before the commencement of the adjudicatory
26 hearing. An objection under this subsection shall specify the portion of the
27 recording which is objectionable and the reasons for the objection. Failure
28 to file an objection within the time provided by this subsection shall
29 constitute waiver of the right to object to the admissibility of the recording
30 unless the court, in its discretion, determines otherwise.

31 (2) The provisions of this subsection shall not apply to any objection
32 to admissibility for the reason that the recording has been materially
33 altered.

34 New Sec. 97. The petitioner must prove by clear and convincing
35 evidence that the child is a child in need of care.

36 New Sec. 98. (a) If the court finds that the child is not a child in need
37 of care, the court shall enter an order dismissing the proceedings.

38 (b) If the court finds that the child is a child in need of care, the court
39 shall enter an order adjudicating the child to be a child in need of care and
40 may proceed to enter other orders as authorized by this code.

41 (c) A final adjudication or dismissal shall be entered within 60 days
42 from the date of the filing of the petition, unless good cause for a
43 continuance is shown on the record.

1 New Sec. 99. (a) Before placement pursuant to this code of a child
2 with a person other than the child's parent, the secretary, the court or the
3 court services officer, at the direction of the court, may convene a
4 conference of persons determined by the court, the secretary or the court
5 services officer to have a potential interest in determining a placement
6 which shall be the least detrimental alternative for the child. Such persons
7 shall be given any information relevant to the determination of the
8 placement of the child, including the needs of the child and any other
9 information that would be helpful in making a placement the least
10 detrimental alternative for the child. After presentation of the information,
11 such persons shall be permitted to discuss and recommend to the secretary
12 or the court services officer the person or persons with whom it would be
13 the least detrimental placement for the child. Unless the secretary or the
14 court services officer determines that there is clear and convincing
15 evidence to place the child with a person other than as recommended, the
16 child shall be placed in accordance with the recommendations.

17 New Sec. 100. (a) At a dispositional hearing, the court shall receive
18 testimony and other relevant information with regard to the safety and well
19 being of the child and may enter orders regarding:

20 (1) Case planning which sets forth the responsibilities and timelines
21 necessary to achieve permanency for the child; and

22 (2) only after a trial or waiving of the right, custody of the child.

23 (b) An order of disposition may be entered at the time of the
24 adjudication if notice has been provided pursuant to section 101, and
25 amendments thereto, but shall be entered within 30 days following
26 adjudication, unless delayed for good cause shown.

27 (c) If the dispositional hearing meets the requirements of section 106,
28 and amendments thereto, the dispositional hearing may not serve as a
29 permanency hearing.

30 New Sec. 101. (a) Unless waived by the persons entitled to notice, the
31 court shall require notice of the time and place of the dispositional hearing
32 be given to the parties.

33 (b) The court shall require notice and the right to be heard as to
34 proposals for living arrangements for the child, the services to be
35 provided the child and the child's family, and the proposed permanency
36 goal for the child to the following:

37 (1) The child's foster parent or parents or permanent custodian
38 providing care for the child;

39 (2) preadoptive parents for the child, if any;

40 (3) the child's grandparents at their last known addresses or if no
41 grandparent is living or if no living grandparent's address is known, to the
42 closest relative of each of the child's parents whose address is known;

43 (4) the person having custody of the child; and

1 (5) upon request, by any person having close emotional ties with the
2 child and who is deemed by the court to be essential to the deliberations
3 before the court.

4 (c) The notice required by this subsection shall be given by first class
5 mail, not less than 10 business days before the hearing.

6 (d) Individuals receiving notice pursuant to subsection (b) shall not
7 be made a party or interested party to the action solely on the basis of this
8 notice and the right to be heard. The right to be heard shall be at a time and
9 in a manner determined by the court and does not confer an entitlement to
10 appear in person at government expense.

11 (e) The provisions of this subsection shall not require additional
12 notice to any person otherwise receiving notice of the hearing pursuant to
13 section 89, and amendments thereto.

14 New Sec. 102. (a) *Considerations*. Prior to entering an order of
15 disposition, the court shall give consideration to:

16 (1) The child's physical and mental condition;

17 (2) the child's need for assistance;

18 (3) the manner in which the parent participated in the abuse, neglect
19 or abandonment of the child;

20 (4) any relevant information from the intake and assessment process;
21 and

22 (5) the evidence received at the dispositional hearing.

23 (b) *Custody with a parent*. The court may place the child in the
24 custody of either of the child's parents subject to terms and conditions
25 which the court prescribes to assure the proper care and protection of the
26 child, including, but not limited to:

27 (1) Supervision of the child and the parent by a court services officer;

28 (2) participation by the child and the parent in available programs
29 operated by an appropriate individual or agency; and

30 (3) any special treatment or care which the child needs for the child's
31 physical and mental health and safety.

32 The court shall not enter an order removing a child from the custody of
33 a parent pursuant to this section based solely on the finding that the parent
34 is homeless.

35 (c) *Removal of a child from custody of a parent*. The court shall not
36 enter the initial order removing a child from the custody of a parent
37 pursuant to this section unless the court first finds probable cause that:

38 (1) (A) The child is likely to sustain harm if not immediately removed
39 from the home;

40 (B) allowing the child to remain in home is contrary to the welfare of
41 the child; or

42 (C) immediate placement of the child is the least detrimental
43 alternative for the child; and

1 (2) reasonable efforts have been made to maintain the family unit and
2 prevent the unnecessary removal of the child from the child's home or that
3 an emergency exists which threatens the safety to the child.

4 The court shall not enter an order removing a child from the custody of
5 a parent pursuant to this section based solely on the finding that the parent
6 is homeless.

7 (d) *Custody of a child removed from the custody of a parent.* If the
8 court has made the findings required by subsection (c), the court shall
9 enter an order awarding custody to: A relative of the child or to a person
10 with whom the child has close emotional ties who shall not be required to
11 be licensed under article 5 of chapter 65 of the Kansas Statutes Annotated,
12 and amendments thereto; any other suitable person; a shelter facility; a
13 youth residential facility; a staff secure facility, notwithstanding any other
14 provision of law, if the child has been subjected to human trafficking or
15 aggravated human trafficking, as defined by K.S.A. 2013 Supp. 21-5426,
16 and amendments thereto, or commercial sexual exploitation of a child, as
17 defined by K.S.A. 2013 Supp. 21-6422, and amendments thereto, or the
18 child committed an act which, if committed by an adult, would constitute a
19 violation of K.S.A. 2013 Supp. 21-6419, and amendments thereto; or, if
20 the child is 15 years of age or younger, or 16 or 17 years of age if the child
21 has no identifiable parental or family resources or shows signs of physical,
22 mental, emotional or sexual abuse, to the secretary. Custody awarded
23 under this subsection shall continue until further order of the court.

24 (1) When custody is awarded to the secretary, the secretary shall
25 consider any placement recommendation by the court and shall notify the
26 court of the placement or proposed placement of the child within 10 days
27 of the order awarding custody. After providing the parties or interested
28 parties notice and opportunity to be heard, the court may determine
29 whether the secretary's placement or proposed placement is contrary to the
30 welfare or the least detrimental alternative for the child. In making that
31 determination the court shall consider the health and safety needs of the
32 child and the resources available to meet the needs of children in the
33 custody of the secretary. If the court determines that the placement or
34 proposed placement is contrary to the welfare or not the least detrimental
35 alternative for the child, the court shall notify the secretary, who shall then
36 make an alternative placement.

37 (2) The custodian designated under this subsection shall notify the
38 court in writing at least 10 days prior to any planned placement with a
39 parent. The written notice shall state the basis for the custodian's belief that
40 placement with a parent is no longer contrary to the safety or detrimental
41 to the child. Upon reviewing the notice, the court may allow the custodian
42 to proceed with the planned placement or may set the date for a hearing to
43 determine if the child shall be allowed to return home. If the court sets a

1 hearing on the matter, the custodian shall return the child home without
2 written consent of the court.

3 (3) The court may grant any person reasonable rights to visit the child
4 upon motion of the person and a finding that the visitation rights would be
5 the least detrimental alternative for the child.

6 (4) The court may enter an order restraining any alleged perpetrator
7 of physical, mental or sexual abuse of the child from residing in the child's
8 home; visiting, contacting, harassing or intimidating the child, other family
9 member or witness; or attempting to visit, contact, harass or intimidate the
10 child, other family member or witness. Such restraining order shall be
11 served by personal service pursuant to subsection (a) of section 87, and
12 amendments thereto, on any alleged perpetrator to whom the order is
13 directed.

14 (5) The court shall provide a copy of any orders entered within 10
15 days of entering the order to the custodian designated under this
16 subsection.

17 (e) *Further determinations regarding a child removed from the home.*
18 If custody has been awarded under subsection (d) to a person other than a
19 parent, a permanency plan shall be provided or prepared pursuant to
20 section 105, and amendments thereto. If a permanency plan is provided at
21 the dispositional hearing, the court shall determine thru testimony and
22 evidence presented whether reintegration is a viable alternative or, if
23 reintegration is not a viable alternative, whether the child should be placed
24 for adoption or a permanent custodian appointed. In determining whether
25 reintegration is a viable alternative, the court shall consider:

26 (1) Whether a parent has been found by a court to have committed
27 one of the following crimes or to have violated the law of another state
28 prohibiting such crimes or to have aided and abetted, attempted, conspired
29 or solicited the commission of one of these crimes: (A) Murder in the first
30 degree, K.S.A. 21-3401, prior to its repeal, or K.S.A. 2013 Supp. 21-5402,
31 and amendments thereto; (B) murder in the second degree, K.S.A. 21-
32 3402, prior to its repeal, or K.S.A. 2013 Supp. 21-5403, and amendments
33 thereto; (C) capital murder, K.S.A. 21-3439, prior to its repeal, or K.S.A.
34 2013 Supp. 21-5401, and amendments thereto; (D) voluntary
35 manslaughter, K.S.A. 21-3403, prior to its repeal, or K.S.A. 2013 Supp.
36 21-5404, and amendments thereto; or (E) a felony battery that resulted in
37 bodily injury;

38 (2) whether a parent has subjected the child or another child to
39 aggravated circumstances;

40 (3) whether a parent has previously been found to be an unfit parent
41 in proceedings under this code or in comparable proceedings under the
42 laws of another state or the federal government; and

43 (4) whether the secretary has provided the family with services

1 necessary for the safe return of the child to the home.

2 (f) *Proceedings if reintegration is not a viable alternative.* If the court
3 determines that reintegration is not a viable alternative, trial dates for the
4 proceedings to terminate parental rights and permit placement of the child
5 for adoption or appointment of a permanent custodian shall be initiated. If
6 compelling reasons have not been documented, the county or district
7 attorney shall file a motion within 30 days to terminate parental rights or a
8 motion to appoint a permanent custodian within 30 days and the court
9 shall hold a hearing on the motion within 90 days of its filing. No hearing
10 is required when the parents voluntarily relinquish parental rights or
11 consent to the appointment of a permanent custodian. But a trial date must
12 be set by the judge, and if requested by the parties a jury must be seated.

13 (g) *Additional Orders.* In addition to or in lieu of any other order
14 authorized by this section:

15 (1) If the court has clear and convincing evidence that a child is
16 before the court due, in whole or in part, to the use or misuse of alcohol or
17 a violation of K.S.A. 2013 Supp. 21-5701 through 21-5717, and
18 amendments thereto, by the child, a parent of the child, or another person
19 responsible for the care of the child, the court may order the child, parent
20 of the child or other person responsible for the care of the child to submit
21 to and complete an alcohol and drug evaluation by a qualified person or
22 agency and comply with any recommendations. If the evaluation is
23 performed by a community-based alcohol and drug safety program
24 certified pursuant to K.S.A. 8-1008, and amendments thereto, the child,
25 parent of the child or other person responsible for the care of the child
26 shall pay a fee not to exceed the fee established by that statute. If the court
27 finds that the child and those legally liable for the child's support are
28 indigent, the fee may be waived. In no event shall the fee be assessed
29 against the secretary.

30 (2) If child support has been requested and the parent or parents have
31 a duty to support the child, the court may order one or both parents to pay
32 child support and, when custody is awarded to the secretary, the court shall
33 order one or both parents to pay child support. If the court finds that the
34 parent or parents are indigent, the support must be waived. The court shall
35 determine, for each parent separately, whether the parent is already subject
36 to an order to pay support for the child. If the parent is not presently
37 ordered to pay support for any child who is subject to the jurisdiction of
38 the court and the court has personal jurisdiction over the parent, the court
39 shall order the parent to pay child support in an amount determined under
40 section 102, and amendments thereto. Except for good cause shown, the
41 court shall issue an immediate income withholding order pursuant to
42 K.S.A. 23-3101 et seq., and amendments thereto, for each parent ordered
43 to pay support under this subsection, regardless of whether a payor has

1 been identified for the parent. A parent ordered to pay child support under
2 this subsection shall be notified, at the hearing or otherwise, that the child
3 support order may be registered pursuant to this section. The parent shall
4 also be informed that, after registration, the income withholding order may
5 be served on the parent's employer without further notice to the parent and
6 the child support order may be enforced by any method allowed by law.
7 Failure to provide this notice shall affect the validity of the child support
8 order.

9 (h) *Determination of child support.* (1) In determining the amount of
10 a child support order under the code, the court shall apply the Kansas child
11 support guidelines adopted pursuant to K.S.A. 20-165, and amendments
12 thereto, with modifications to include the miscellaneous expense credit for
13 informal supervision pursuant to section 92, and amendments thereto.

14 (2) If the appropriate amount of support under the Kansas child
15 support guidelines cannot be determined because any necessary fact is not
16 proven by evidence or by stipulation of the appropriate parent, the court
17 shall apply one or more of the following presumptions:

18 (A) Both parents have only gross earned income equal to 40 hours
19 per week at the federal minimum wage then in effect;

20 (B) neither parent's income is subject to adjustment for any reason;

21 (C) the number of children is as alleged in the petition;

22 (D) the age of each child is as alleged in the petition or, if unknown,
23 is between seven and 15 years;

24 (E) no adjustment for child care, health or dental insurance or income
25 tax exemption is appropriate; or

26 (F) neither parent is entitled to any other credit or adjustment.

27 (3) If the county or district attorney determines that: (A) A parent will
28 contest the amount of support resulting from application of the guidelines;
29 (B) the parent is or may be entitled to an adjustment pursuant to the
30 guidelines; and (C) it is in the child's interests to resolve the support issue
31 promptly and with minimal hostility, the county or district attorney may
32 enter into a stipulation with the parent as to the amount of child support for
33 that parent. The amount of support may be based upon one or more of the
34 presumptions in this subsection. Except for good cause, a stipulation under
35 this subsection shall not be binding upon the court and all parties or
36 interested parties. The criteria for application of this subsection shall be
37 incorporated into a journal entry or judgment form.

38 (i) *Withholding order for child support; filing; service; jurisdiction;*
39 *consolidation with child in need of care case; modification.* (1) A person
40 entitled to receive child support under an order issued pursuant to the code
41 may file with the clerk of the district court in the county in which the
42 judgment was rendered the original child support order and the original
43 income withholding order, if any. If the original child support or income

1 withholding order is unavailable for any reason, a certified or
2 authenticated copy of the order may be substituted. The clerk of the district
3 court shall number the child support order as a case filed under chapter 60
4 of the Kansas Statutes Annotated, and amendments thereto, and enter the
5 numbering of the case on the appearance docket of the case. Registration
6 of a child support order shall be without cost or docket fee.

7 (2) If the number assigned to a case under the code appears in the
8 caption of a document filed pursuant to this section, the clerk of the district
9 court may obliterate that number and replace it with the new case number
10 assigned pursuant to this section.

11 (3) The filing of the child support order shall constitute registration
12 under this section. Upon registration of the child support order, all matters
13 related to that order, including, but not limited to, modification of the
14 order, shall proceed under the new case number except as otherwise
15 provided in this section. Registration of a child support order under this
16 section does not confer jurisdiction in the registration case for custody,
17 residency or parenting time issues.

18 (4) The person registering a child support order shall serve a copy of
19 the registered child support order and income withholding order, if any,
20 upon the party or interested parties by first-class mail. The person
21 registering the child support order shall file, in the official file for each
22 child affected, either a copy of the registered order showing the new case
23 number or a statement that includes the caption, new case number and date
24 of registration of the child support order.

25 (5) If the secretary is entitled to receive payment under an order
26 which may be registered under this section, the county or district attorney
27 shall take the actions permitted or required in subsections (a) and (d) upon
28 request of the secretary.

29 (6) A child support order registered pursuant to this section shall have
30 the same force and effect as an original child support order entered under
31 chapter 60 of the Kansas Statutes Annotated, and amendments thereto,
32 including, but not limited to:

33 (A) The registered order may become a lien;

34 (B) execution or other action to enforce the registered order may be
35 had;

36 (C) the registered order may itself be registered pursuant to any law,
37 including, but not limited to, the uniform interstate family support act,
38 K.S.A. 23-9,101 et seq., and amendments thereto; and

39 (D) if any installment of support due under the registered order
40 becomes a dormant judgment, it may be revived pursuant to K.S.A. 60-
41 2404, and amendments thereto.

42 (7) Subject to the provisions of K.S.A. 23-9,207, and amendments
43 thereto, the court in the registration case shall have continuing jurisdiction

1 over the child support action and the parties thereto and subject matter and,
2 except as otherwise provided in subsection (h) or (i), may modify any prior
3 support order, a material change in circumstances need not be shown. The
4 court may make a modification of child support retroactive to a date from
5 which the payments started or the motion to modify was filed with the
6 court. The court shall not take upon itself to modify any order that was
7 previously agreed upon and signed by the parents.

8 (8) At the direction of the judge or a motion by the parents in the
9 child in need of care case, the registration case may be consolidated with
10 the child in need of care case pursuant to the code of civil procedure so
11 long as the child in need of care case is open. While the cases are
12 consolidated, any motion to modify the registered support order shall be
13 filed in the child in need of care case. If any support rights are assigned,
14 the assignee shall be treated as an interested party in the consolidated cases
15 for all proceedings involving the support order. Nothing in this subsection
16 shall be construed to prevent or limit enforcement of the support order.

17 (9) If the person requesting modification of current support shows
18 that the support order was based upon one or more of the presumptions, or
19 upon a stipulation, the court shall apply the Kansas child support
20 guidelines adopted pursuant to K.S.A. 20-165, and amendments thereto,
21 without requiring a showing that a material change of circumstances has
22 occurred, without regard to any previous presumption or stipulation used
23 to determine the amount of the child support order and irrespective of the
24 present domicile of the child or parents.

25 New Sec. 103. No outside placement of the child will be made
26 without a permanency plan in place. A written permanency plan shall be
27 prepared pursuant to section 104, and amendments thereto.

28 New Sec. 104. (a) The goal of permanency planning is to assure, in so
29 far as is possible, that children have permanency and stability in their
30 living situations and that the continuity of family relationships and
31 connections shall be preserved. In planning for permanency, the safety and
32 well being of children shall be paramount.

33 (b) Whenever a child is subject to the jurisdiction of the court
34 pursuant to the code, a permanency plan shall be developed, in place and
35 submitted to the court with the initial order of the court. If the child is in
36 the custody of the secretary, or the secretary is providing services to the
37 child, the secretary shall prepare the plan. Otherwise, the plan shall be
38 prepared by the person who has custody or, if directed by the court, by a
39 court services officer.

40 (c) A permanency plan is a written document prepared, where
41 possible, in consultation with the child's parents and which:

42 (1) Describes the permanency goal which, if achieved, will most
43 likely give the child a permanent and safe living arrangement;

1 (2) describes the child's level of physical health, mental health and
2 educational functioning;

3 (3) provides an assessment of the needs of the child and family;

4 (4) describes the services to be provided to the child, the child's
5 parents and the child's foster parents, if appropriate;

6 (5) includes a description of the tasks and responsibilities designed to
7 achieve the plan and to whom assigned; and

8 (6) includes measurable objectives and time schedules for achieving
9 the plan.

10 (d) In addition to the requirements of subsection (c), if the child is in
11 an out of home placement, the permanency plan shall include:

12 (1) A plan for reintegration of the child's parent or parents or if
13 reintegration is determined not to be a viable alternative, a statement for
14 the basis of that conclusion and a plan for another permanent living
15 arrangement;

16 (2) a description of the available placement alternatives;

17 (3) a justification for the placement selected, including a description
18 of the safety and appropriateness of the placement; and

19 (4) a description of the programs and services which will help the
20 child prepare to live independently as an adult.

21 (e) If there is a lack of agreement among persons necessary for the
22 success of the permanency plan, the person or entity having custody of the
23 child shall notify the court which shall set a hearing on the plan.

24 (f) A permanency plan may be amended at any time upon agreement
25 of the plan participants. If a permanency plan requires amendment which
26 changes the permanency goal, the person or entity having custody of the
27 child shall notify the court which shall set a permanency hearing pursuant
28 to sections 105 and 106, and amendments thereto.

29 New Sec. 105. (a) A permanency hearing is a proceeding conducted
30 by the court or by a citizen review board for the purpose of determining
31 progress toward accomplishment of a permanency plan as established by
32 section 104, and amendments thereto.

33 (b) The court or a citizen review board shall hear and the court shall
34 determine whether and, if applicable, when the child will be:

35 (1) Reintegrated with the child's parents;

36 (2) placed for adoption;

37 (3) placed with a permanent custodian; or

38 (4) if the secretary has documented compelling reasons why it would
39 not be the child's least detrimental alternative for the child's placement
40 pursuant to paragraphs (1), (2) or (3) placed in another planned permanent
41 arrangement.

42 (c) The court shall enter a finding from evidence presented as to
43 whether reasonable efforts have been made by appropriate public or

1 private agencies to rehabilitate the family and achieve the permanency
2 goal in place at the time of the hearing.

3 (d) A permanency hearing shall be held within one month of the date
4 the court authorized the child's removal from the home and not less
5 frequently than every one month thereafter.

6 (e) If the court determines at any time other than during a
7 permanency hearing that reintegration may not be a viable alternative for
8 the child, a permanency hearing shall be held no later than 30 days
9 following that determination.

10 (f) When the court finds that reintegration continues to be a viable
11 alternative, the court shall determine whether and, if applicable, when the
12 child will be returned to the parent. The court may rescind any of its prior
13 dispositional orders and enter any dispositional order authorized by this
14 code or may order that a new plan for the reintegration be prepared and
15 submitted to the court. If reintegration cannot be accomplished as
16 approved by the court, the court shall be informed and shall schedule a
17 hearing pursuant to this section. No such hearing is required when the
18 parents voluntarily relinquish parental rights or consent to appointment of
19 a permanent custodian.

20 (g) If the court finds reintegration is no longer a viable alternative, the
21 court shall consider whether: (1) The child is in a stable placement with a
22 relative; (2) services set out in the case plan necessary for the safe return
23 of the child have been made available to the parent with whom
24 reintegration is planned; or (3) compelling evidence is documented in the
25 case plan to support a finding that neither adoption nor appointment of a
26 permanent custodian are the least detrimental alternative to the child. If
27 reintegration is not a viable alternative and either adoption or appointment
28 of a permanent custodian might be the least detrimental alternative for the
29 child, the county or district attorney or the county or district attorney's
30 designee shall file a motion to terminate parental rights or a motion to
31 appoint a permanent custodian within 30 days and the court shall set a
32 hearing on such motion within 90 days of the filing of such motion.

33 (h) If the court enters an order terminating parental rights to a child
34 after a trial, or an agency has accepted a relinquishment pursuant to K.S.A.
35 59-2124, and amendments thereto, the requirements for permanency
36 hearings shall continue until an adoption or appointment of a permanent
37 custodian has been accomplished. If the court determines from evidence
38 presented that reasonable efforts or progress has not been made toward
39 finding an adoptive placement or appointment of a permanent custodian or
40 placement with a fit and willing relative, the court shall rescind its prior
41 orders and make others regarding custody and adoption that are
42 appropriate under the circumstances. Reports of a proposed adoptive
43 placement need not contain the identity of the proposed adoptive parents.

1 (i) If permanency with one parent has been achieved without the
2 termination of the other parent's rights, the court shall, prior to dismissing
3 the case, enter child custody orders, including residency and parenting
4 time that the court determines to be the least detrimental alternative for the
5 child. The court shall complete a parenting plan pursuant to K.S.A. 2013
6 Supp. 23-3213, and amendments thereto.

7 (1) Before entering a custody order under this subsection, the court
8 shall inquire whether a custody order has been entered or is pending in a
9 civil custody case by a court of competent jurisdiction within the state of
10 Kansas.

11 (2) If a civil custody case has been filed or is pending, a certified
12 copy of the custody, residency and parenting time orders shall be filed in
13 the civil custody case. The court in the civil custody case may, after
14 consultation with the court in the child in need of care case, enter an order
15 declaring that the custody order in the child in need of care case shall
16 become the custody order in the civil custody case.

17 (3) A district court, upon the motion of any party, may order the
18 consolidation of the child in need of care case with any open civil custody
19 case involving the child and both of the child's parents. Following entry of
20 a custody order in a consolidated case, the court shall dismiss the child in
21 need of care case and, if necessary, return the civil custody case to the
22 original court having jurisdiction over it.

23 (4) If no civil custody case has been filed, the court may direct the
24 parties to file a civil custody case and to file the custody orders from the
25 child in need of care case in that case. Costs of the civil custody case may
26 be assessed to the parties.

27 (5) Nothing in this subsection shall operate to expand access to
28 information that is confidential under section 72, and amendments thereto,
29 and the confidentiality of such information shall be preserved in all filings
30 in a civil custody case.

31 (j) When permanency has been achieved to the satisfaction of the
32 court, the court shall enter an order closing the case.

33 New Sec. 106. (a) The court shall require notice of the time and place
34 of the permanency hearing to be given to the parties and interested parties.
35 The notice shall state that the person receiving the notice shall have the
36 right to be heard at the hearing.

37 (b) The court shall require notice and the right to be heard to the
38 following:

39 (1) The child's foster parent or parents or permanent custodian
40 providing care for the child;

41 (2) preadoptive parents for the child, if any;

42 (3) the child's grandparents at their last known addresses or, if no
43 grandparent is living or if no living grandparent's address is known, to the

1 closest relative of the child's parents whose address is known;

2 (4) the person having custody of the child; and

3 (5) upon request, by any person having close ties with the child and
4 who is deemed by the court to be essential to the deliberations before the
5 court.

6 (c) The notices required by this subsection shall be given by first
7 class mail, not less than 10 business days before the hearing.

8 (d) Individuals receiving notice pursuant to subsection (b) shall not
9 be made a party or interested party to the action solely on the basis of this
10 notice and the right to be heard. The right to be heard shall be at a time and
11 in a manner determined by the court and does not confer an entitlement to
12 appear in person at government expense.

13 (e) The provisions of this section shall not require additional notice to
14 any person otherwise receiving notice of the hearing pursuant to section
15 89, and amendments thereto.

16 Sec. 107. K.S.A. 2013 Supp. 23-2204 is hereby amended to read as
17 follows: 23-2204. (a) The state registrar of vital statistics, in conjunction
18 with the ~~secretary of social and rehabilitation services for children and~~
19 ~~families~~, shall review and, as needed, revise acknowledgment of paternity
20 forms for use under K.S.A. 2013 Supp. 23-2223 and K.S.A. 65-2409a, and
21 amendments thereto. The acknowledgment of paternity forms shall include
22 or have attached a written description pursuant to subsection (b) of the
23 rights and responsibilities of acknowledging paternity.

24 (b) A written description of the rights and responsibilities of
25 acknowledging paternity shall state the following:

26 (1) An acknowledgment of paternity creates a permanent father and
27 child relationship which can only be ended by court order. A person who
28 wants to revoke the acknowledgment of paternity must file the request
29 with the court before the child is one year old, unless the person was under
30 age 18 when the acknowledgment of paternity was signed. A person under
31 age 18 when the acknowledgment was signed has until one year after his
32 or her 18th birthday to file a request, but if the child is more than one year
33 old then, the judge will first consider the ~~child's best interests~~ *least*
34 *detrimental alternative for the child*.

35 The person will have to show that the acknowledgment was based on
36 fraud, duress (threat) or an important mistake of fact, unless the request is
37 filed within 60 days of signing the acknowledgment or before any court
38 hearing about the child, whichever is earlier;

39 (2) both the father and the mother are responsible for the care and
40 support of the child. If necessary, this duty may be enforced through legal
41 action such as a child support order, an order to pay birth or other medical
42 expenses of the child or an order to repay government assistance payments
43 for the child's care. A parent's willful failure to support the parent's child is

1 a crime;

2 (3) both the father and the mother have rights of custody and
3 parenting time with the child unless a court order changes their rights.
4 Custody, residency and parenting time may be spelled out in a court order
5 and enforced;

6 (4) both the father and the mother have the right to consent to medical
7 treatment for the child unless a court order changes those rights;

8 (5) the child may inherit from the father and the father's family or
9 from the mother and the mother's family. The child may receive public
10 benefits, including, but not limited to, social security or private benefits,
11 including, but not limited to, insurance or workers compensation because
12 of the father-child or mother-child relationship;

13 (6) the father or the mother may be entitled to claim the child as a
14 dependent for tax or other purposes. The father or the mother may inherit
15 from the child or the child's descendants; and

16 (7) each parent has the right to sign or not sign an acknowledgment of
17 paternity. Each parent has the right to talk with an attorney before signing
18 an acknowledgment of paternity. Each parent has the right to be
19 represented by an attorney in any legal action involving paternity or their
20 rights or duties as a parent. Usually each person is responsible for hiring
21 the person's own attorney.

22 (c) Any duty to disclose rights or responsibilities related to signing an
23 acknowledgment of paternity shall have been met by furnishing the written
24 disclosures of subsection (b). Any duty to disclose orally the rights or
25 responsibilities related to signing an acknowledgment of paternity may be
26 met by means of an audio recording of the disclosures of subsection (b).

27 (d) An acknowledgment of paternity completed without the written
28 disclosures of subsection (b) is not invalid solely for that reason and may
29 create a presumption of paternity pursuant to K.S.A. 2013 Supp. 23-2208,
30 and amendments thereto. Nothing in K.S.A. 2013 Supp. 23-2202 through
31 23-2204, and amendments thereto, shall decrease the validity, force or
32 effect of an acknowledgment of paternity executed in this state prior to the
33 effective date of this act.

34 (e) Upon request, the state registrar of vital statistics shall provide a
35 certified copy of the acknowledgment of paternity to an office providing
36 IV-D program services.

37 Sec. 108. K.S.A. 2013 Supp. 23-2208 is hereby amended to read as
38 follows: 23-2208. (a) A man is presumed to be the father of a child if:

39 (1) The man and the child's mother are, or have been, married to each
40 other and the child is born during the marriage or within 300 days after the
41 marriage is terminated by death or by the filing of a journal entry of a
42 decree of annulment or divorce.

43 (2) Before the child's birth, the man and the child's mother have

1 attempted to marry each other by a marriage solemnized in apparent
2 compliance with law, although the attempted marriage is void or voidable
3 and:

4 (A) If the attempted marriage is voidable, the child is born during the
5 attempted marriage or within 300 days after its termination by death or by
6 the filing of a journal entry of a decree of annulment or divorce; or

7 (B) if the attempted marriage is void, the child is born within 300
8 days after the termination of cohabitation.

9 (3) After the child's birth, the man and the child's mother have
10 married, or attempted to marry, each other by a marriage solemnized in
11 apparent compliance with law, although the attempted marriage is void or
12 voidable and:

13 (A) The man has acknowledged paternity of the child in writing;

14 (B) with the man's consent, the man is named as the child's father on
15 the child's birth certificate; or

16 (C) the man is obligated to support the child under a written voluntary
17 promise or by a court order.

18 (4) The man notoriously or in writing recognizes paternity of the
19 child, including but not limited to a voluntary acknowledgment made in
20 accordance with K.S.A. 2013 Supp. 23-2223 or K.S.A. 65-2409a, and
21 amendments thereto.

22 (5) Genetic test results indicate a probability of 97% or greater that
23 the man is the father of the child.

24 (6) The man has a duty to support the child under an order of support
25 regardless of whether the man has ever been married to the child's mother.

26 (b) A presumption under this section may be rebutted only by clear
27 and convincing evidence, by a court decree establishing paternity of the
28 child by another man or as provided in subsection (c). If a presumption is
29 rebutted, the party alleging the existence of a father and child relationship
30 shall have the burden of going forward with the evidence.

31 (c) If two or more presumptions under this section arise which
32 conflict with each other, the presumption which on the facts is founded on
33 the weightier considerations of policy and logic, including the ~~best-~~
34 ~~interests of~~ *least detrimental alternative* for the child, shall control.

35 (d) Full faith and credit shall be given to a determination of paternity
36 made by any other state or jurisdiction, whether the determination is
37 established by judicial or administrative process or by voluntary
38 acknowledgment. As used in this section, "full faith and credit" means that
39 the determination of paternity shall have the same conclusive effect and
40 obligatory force in this state as it has in the state or jurisdiction where
41 made.

42 (e) If a presumption arises under this section, the presumption shall
43 be sufficient basis for entry of an order requiring the man to support the

1 child without further paternity proceedings.

2 (f) The donor of semen provided to a licensed physician for use in
3 artificial insemination of a woman other than the donor's wife is treated in
4 law as if he were not the birth father of a child thereby conceived, unless
5 agreed to in writing by the donor and the woman.

6 Sec. 109. K.S.A. 2013 Supp. 23-2209 is hereby amended to read as
7 follows: 23-2209. (a) A child or any person on behalf of such a child, may
8 bring an action:

9 (1) At any time to determine the existence of a father and child
10 relationship presumed under K.S.A. 2013 Supp. 23-2208, and amendments
11 thereto; or

12 (2) at any time until three years after the child reaches the age of
13 majority to determine the existence of a father and child relationship which
14 is not presumed under K.S.A. 2013 Supp. 23-2208, and amendments
15 thereto.

16 (b) When authorized under K.S.A. 39-755 or 39-756, and
17 amendments thereto, the ~~secretary of social and rehabilitation services for~~
18 *children and families* may bring an action at any time during a child's
19 minority to determine the existence of the father and child relationship.

20 (c) This section does not extend the time within which a right of
21 inheritance or a right to a succession may be asserted beyond the time
22 provided by law relating to the probate of estates or determination of
23 heirship.

24 (d) Any agreement between an alleged or presumed father and the
25 mother or child does not bar an action under this section.

26 (e) Except as otherwise provided in this subsection, if an
27 acknowledgment of paternity pursuant to K.S.A. 2013 Supp. 23-2204, and
28 amendments thereto, has been completed the man named as the father, the
29 mother or the child may bring an action to revoke the acknowledgment of
30 paternity at any time until one year after the child's date of birth. The legal
31 responsibilities, including any child support obligation, of any signatory
32 arising from the acknowledgment of paternity shall not be suspended
33 during the action, except for good cause shown. If the person bringing the
34 action was a minor at the time the acknowledgment of paternity was
35 completed, the action to revoke the acknowledgment of paternity may be
36 brought at any time until one year after that person attains age 18, unless
37 the court finds that the child is more than one year of age and that
38 revocation of the acknowledgment of paternity is not ~~in the child's best~~
39 ~~interest~~ *the least detrimental alternative for the child*.

40 The person requesting revocation must show, and shall have the burden
41 of proving, that the acknowledgment of paternity was based upon fraud,
42 duress or material mistake of fact unless the action to revoke the
43 acknowledgment of paternity is filed before the earlier of 60 days after

1 completion of the acknowledgment of paternity or the date of a proceeding
2 relating to the child in which the signatory is a party, including, but not
3 limited to, a proceeding to establish a support order.

4 If a court of this state has assumed jurisdiction over the matter of the
5 child's paternity or the duty of a man to support the child, that court shall
6 have exclusive jurisdiction to determine whether an acknowledgment of
7 paternity may be revoked under this subsection.

8 If an acknowledgment of paternity has been revoked under this
9 subsection, it shall not give rise to a presumption of paternity pursuant to
10 K.S.A. 2013 Supp. 23-2208, and amendments thereto. Nothing in this
11 subsection shall prevent a court from admitting a revoked
12 acknowledgment of paternity into evidence for any other purpose.

13 If there has been an assignment of the child's support rights pursuant to
14 K.S.A. 39-709, and amendments thereto, the secretary ~~of social and~~
15 ~~rehabilitation services for children and families~~ shall be a necessary party
16 to any action under this subsection.

17 Sec. 110. K.S.A. 2013 Supp. 23-2215 is hereby amended to read as
18 follows: 23-2215. (a) The judgment or order of the court determining the
19 existence or nonexistence of the parent and child relationship is
20 determinative for all purposes, but if any person necessary to determine
21 the existence of a father and child relationship for all purposes has not
22 been joined as a party, a determination of the paternity of the child shall
23 have only the force and effect of a finding of fact necessary to determine a
24 duty of support.

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

29 (c) Upon adjudging that a party is the parent of a minor child, the
30 court shall make provision for support and education of the child including
31 the necessary medical expenses incident to the birth of the child. The court
32 may order the support and education expenses to be paid by either or both
33 parents for the minor child. When the child reaches 18 years of age, the
34 support shall terminate unless: (1) The parent or parents agree, by written
35 agreement approved by the court, to pay support beyond that time; (2) the
36 child reaches 18 years of age before completing the child's high school
37 education in which case the support shall not automatically terminate,
38 unless otherwise ordered by the court, until June 30 of the school year
39 during which the child became 18 years of age if the child is still attending
40 high school; or (3) the child is still a bona fide high school student after
41 June 30 of the school year during which the child became 18 years of age,
42 in which case the court, on motion, may order support to continue through
43 the school year during which the child becomes 19 years of age so long as

1 the child is a bona fide high school student and the parents jointly
2 participated or knowingly acquiesced in the decision which delayed the
3 child's completion of high school. The court, in extending support pursuant
4 to subsection (c)(3), may impose such conditions as are appropriate and
5 shall set the child support utilizing the guideline table category for 16-year
6 through 18-year-old children. Provision for payment of support and
7 educational expenses of a child after reaching 18 years of age if still
8 attending high school shall apply to any child subject to the jurisdiction of
9 the court, including those whose support was ordered prior to July 1, 1992.
10 If an agreement approved by the court prior to July 1, 1988, provides for
11 termination of support before the date provided by subsection (c)(2), the
12 court may review and modify such agreement, and any order based on
13 such agreement, to extend the date for termination of support to the date
14 provided by subsection (c)(2). If an agreement approved by the court prior
15 to July 1, 1992, provides for termination of support before the date
16 provided by subsection (c)(3), the court may review and modify such
17 agreement, and any order based on such agreement, to extend the date for
18 termination of support to the date provided by subsection (c)(3). For
19 purposes of this section, "bona fide high school student" means a student
20 who is enrolled in full accordance with the policy of the accredited high
21 school in which the student is pursuing a high school diploma or a
22 graduate equivalency diploma (GED). The judgment may require the party
23 to provide a bond with sureties to secure payment. The court may at any
24 time during the minority of the child modify or change the order of
25 support, including any order issued in a title IV-D case, within three years
26 of the date of the original order or a modification order, as required by
27 the best interest of the child. If more than three years has passed since the date
28 of the original order or modification order, a requirement that such order is
29 in the best interest of the child need not be shown. The court may make a
30 modification of support retroactive to a date at least one month after the
31 date that the motion to modify was filed with the court. Any increase in
32 support ordered effective prior to the date the court's judgment is filed
33 shall not become a lien on real property pursuant to K.S.A. 60-2202, and
34 amendments thereto.

35 (d) If both parents are parties to the action, the court shall enter such
36 orders regarding custody, residency and parenting time as the court
37 considers to be ~~in the best interest of~~ *the least detrimental alternative* for
38 the child.

39 If the parties have an agreed parenting plan it shall be presumed the
40 agreed parenting plan is ~~in the best interest of~~ *the least detrimental*
41 *alternative* for the child. This presumption may be overcome and the court
42 may make a different order if the court makes specific findings of fact
43 stating why the agreed parenting plan is not in the best interest of the child.

1 If the parties are not in agreement on a parenting plan, each party shall
2 submit a proposed parenting plan to the court for consideration at such
3 time before the final hearing as may be directed by the court.

4 (e) If during the proceedings the court determines that there is
5 probable cause to believe that the child is a child in need of care, as
6 defined by subsections (d)(1), (d)(2), (d)(3) or (d)(11) of K.S.A. 2013
7 Supp. 38-2202, and amendments thereto, or that neither parent is fit to
8 have residency, the court may award temporary residency of the child to a
9 grandparent, aunt, uncle or adult sibling, or another person or agency if the
10 court finds by written order that: (1) (A) The child is likely to sustain harm
11 if not immediately removed from the home; (B) allowing the child to
12 remain in home is contrary to the welfare of the child; or (C) immediate
13 placement of the child is ~~in the best interest of~~ *the least detrimental*
14 *alternative for* the child; and (2) reasonable efforts have been made to
15 maintain the family unit and prevent the unnecessary removal of the child
16 from the child's home or that an emergency exists which threatens the
17 safety of the child. In making such a residency order, the court shall give
18 preference, to the extent that the court finds it is ~~in the best interests of~~ *the*
19 *least detrimental alternative for* the child, first to awarding such residency
20 to a relative of the child by blood, marriage or adoption and second to
21 awarding such residency to another person with whom the child has close
22 emotional ties. The court may make temporary orders for care, support,
23 education and visitation that it considers appropriate. Temporary residency
24 orders are to be entered in lieu of temporary orders provided for in K.S.A.
25 2013 Supp. 38-2243 and 38-2244, and amendments thereto, and shall
26 remain in effect until there is a final determination under the revised
27 Kansas code for care of children. An award of temporary residency under
28 this paragraph shall not terminate parental rights nor give the court the
29 authority to consent to the adoption of the child. When the court enters
30 orders awarding temporary residency of the child to an agency or a person
31 other than the parent, the court shall refer a transcript of the proceedings to
32 the county or district attorney. The county or district attorney shall file a
33 petition as provided in K.S.A. 2013 Supp. 38-2234, and amendments
34 thereto, and may request termination of parental rights pursuant to K.S.A.
35 2013 Supp. 38-2266, and amendments thereto. The costs of the
36 proceedings shall be paid from the general fund of the county. If a final
37 determination is made that the child is not a child in need of care, the
38 county or district attorney shall notify the court in writing and the court,
39 after a hearing, shall enter appropriate custody orders pursuant to this
40 section. If the same judge presides over both proceedings, the notice is not
41 required. Any order pursuant to the revised Kansas code for care of
42 children shall take precedence over any similar order under this section.

43 (f) In entering an original order for support of a child under this

1 section, the court may award an additional judgment to reimburse the
2 expenses of support and education of the child from the date of birth to the
3 date the order is entered. If the determination of paternity is based upon a
4 presumption arising under K.S.A. 2013 Supp. 23-2208, and amendments
5 thereto, the court shall award an additional judgment to reimburse all or
6 part of the expenses of support and education of the child from at least the
7 date the presumption first arose to the date the order is entered, except that
8 no additional judgment need be awarded for amounts accrued under a
9 previous order for the child's support.

10 (g) In determining the amount to be ordered in payment and duration
11 of such payments, a court enforcing the obligation of support shall
12 consider all relevant facts including, but not limited to, the following:

- 13 (1) The needs of the child.
- 14 (2) The standards of living and circumstances of the parents.
- 15 (3) The relative financial means of the parents.
- 16 (4) The earning ability of the parents.
- 17 (5) The need and capacity of the child for education.
- 18 (6) The age of the child.
- 19 (7) The financial resources and the earning ability of the child.
- 20 (8) The responsibility of the parents for the support of others.
- 21 (9) The value of services contributed by both parents.
- 22 (h) The provisions of K.S.A. 2013 Supp. 23-3103, and amendments
23 thereto, shall apply to all orders of support issued under this section.

24 (i) An order granting parenting time pursuant to this section may be
25 enforced in accordance with K.S.A. 2013 Supp. 23-3401, and amendments
26 thereto, or under the uniform child custody jurisdiction and enforcement
27 act.

28 Sec. 111. K.S.A. 2013 Supp. 23-2225 is hereby amended to read as
29 follows: 23-2225. (a) Except as provided in subsection (d), a parent
30 granted rights pursuant to subsection (d) of K.S.A. 2013 Supp. 23-2215,
31 and amendments thereto, shall give written notice to the other parent who
32 has been granted rights pursuant to subsection (d) of K.S.A. 2013 Supp.
33 23-2215, and amendments thereto, not less than 30 days prior to: (1)
34 Changing the residence of the child; or (2) removing the child from this
35 state for a period of time exceeding 90 days. Such notice shall be sent by
36 restricted mail, return receipt requested, to the last known address of the
37 other parent.

38 (b) Failure to give notice as required by subsection (a) is an indirect
39 civil contempt punishable as provided by law. In addition, the court may
40 assess, against the parent required to give notice, reasonable attorney fees
41 and any other expenses incurred by the other parent by reason of the
42 failure to give notice.

43 (c) A change of the residence or the removal of a child from this state

1 as described in subsection (a) may be considered a material change of
2 circumstances which justifies modification of a prior order of child
3 support, custody or parenting time. In determining any such motion, the
4 court shall consider all factors the court deems appropriate including, but
5 not limited to:

6 (1) ~~Whether~~ the effect of the move ~~on the best interests of~~ *is the least*
7 *detrimental alternative* for the child;

8 (2) the effect of the move on any party having rights granted pursuant
9 to subsection (d) of K.S.A. 2013 Supp. 23-2215, and amendments thereto;
10 and

11 (3) the increased cost the move will impose on any party seeking to
12 exercise rights granted under subsection (d) of K.S.A. 2013 Supp. 23-
13 2215, and amendments thereto.

14 (d) A parent who has been granted rights pursuant to subsection (d) of
15 K.S.A. 2013 Supp. 23-2215, and amendments thereto, shall not be
16 required to give the notice required by this section to the other parent when
17 the other parent has been convicted of any crime specified in article 34, 35
18 or 36 of chapter 21 of the Kansas Statutes Annotated, prior to their repeal,
19 or article 54, 55 or 56 of chapter 21 of the Kansas Statutes Annotated, or
20 K.S.A. 2013 Supp. 21-6104, 21-6325, 21-6326 or 21-6418 through 21-
21 6421, and amendments thereto, in which the child is the victim of such
22 crime.

23 (e) This section shall be part of and supplemental to the Kansas
24 parentage act.

25 Sec. 112. K.S.A. 2013 Supp. 23-3004 is hereby amended to read as
26 follows: 23-3004. Except for good cause shown, every order requiring
27 payment of child support under this article shall require that the support be
28 paid through the central unit for collection and disbursement of support
29 payments designated pursuant to K.S.A. 2013 Supp. 39-7,135, and
30 amendments thereto. A written agreement between the parties to make
31 direct child support payments to the obligee and not pay through the
32 central unit shall constitute good cause, unless the court finds the
33 agreement is not ~~in the best interest of~~ *the least detrimental alternative* for
34 the child or children. The obligor shall file such written agreement with the
35 court. The obligor shall maintain written evidence of the payment of the
36 support obligation and, at least annually, shall provide such evidence to the
37 court and the obligee.

38 Sec. 113. K.S.A. 2013 Supp. 23-3103 is hereby amended to read as
39 follows: 23-3103. (a) Any new or modified order for support shall include
40 a provision for the withholding of income to enforce the order for support.

41 (b) Except as otherwise provided in subsection (j), (k) or (m), all new
42 or modified orders for support shall provide for immediate issuance of an
43 income withholding order. The income withholding order shall be issued

1 regardless of whether a payor subject to the jurisdiction of this state can be
2 identified at the time the order for support is entered. The income
3 withholding order shall be issued without further notice to the obligor and
4 shall specify:

5 (1) If the income withholding order is to attach to periodic payments,
6 an amount sufficient to satisfy the order for support and to defray any
7 arrearage; or

8 (2) if the income withholding order is to attach a lump sum payment,
9 the amount the payor is required to withhold for support from the lump
10 sum payment.

11 (c) Except as otherwise provided in this subsection or subsections (j)
12 or (m), if no income withholding order is in effect to enforce the support
13 order, an income withholding order shall be issued by the court upon
14 request of the obligee or public office, provided that the obligor accrued an
15 arrearage equal to or greater than the amount of support payable for one
16 month and the requirements of subsections (d) and (h) have been met. The
17 income withholding order shall be issued without further notice to the
18 obligor and shall specify an amount sufficient to satisfy the order for
19 support and to defray any arrearage. The income withholding order shall
20 be issued regardless of whether a payor subject to the jurisdiction of this
21 state can be identified at the time the income withholding order is issued.

22 (d) Not less than seven days after the obligee or public office has
23 served a notice pursuant to subsection (h), the obligee or public office may
24 initiate income withholding pursuant to paragraph (1) or (2).

25 (1) The obligee or public office may apply for an income withholding
26 order by filing with the court an affidavit stating: (A) The date that the
27 notice was served on the obligor and the manner of service; (B) that the
28 obligor has not filed a motion to stay issuance of the income withholding
29 order or, if a motion to stay has been filed, the reason an income
30 withholding order must be issued immediately; (C) a specified amount to
31 be withheld by the payor to satisfy the order of support and to defray any
32 arrearage; (D) whether the income withholding order is to include a
33 medical withholding order; and (E) that the amount of the arrearage as of
34 the date the notice to the obligor was prepared was equal to or greater than
35 the amount of support payable for one month. In addition to any other
36 penalty provided by law, the filing of such an affidavit with knowledge of
37 the falsity of a material declaration is punishable as a contempt.

38 Upon the filing of the affidavit, the income withholding order shall be
39 issued without further notice to the obligor, hearing or amendments of the
40 support order. Payment of all or part of the arrearage before issuance of the
41 income withholding order shall not prevent issuance of the income
42 withholding order, unless the arrearage is paid in full and the order for
43 support does not include an amount for the current support of a person. No

1 affidavit is required if the court, upon hearing a motion to stay issuance of
2 the income withholding order or otherwise, issues an income withholding
3 order.

4 (2) In a title IV-D case, the IV-D agency may issue an income
5 withholding order as authorized by K.S.A. 39-7,147, and amendments
6 thereto. Any such income withholding order shall be considered an income
7 withholding order issued pursuant to this act.

8 (e) (1) An income withholding order shall be directed to any payor of
9 the obligor. Notwithstanding any other requirement of this act as to form
10 or content, only an income withholding order prepared in a standard
11 format prescribed by the secretary of the department for children and
12 families, or the standard federal notices and forms promulgated under 42
13 U.S.C. § 652 (a)(11) and 42 U.S.C. § 666 (b)(A)(ii), shall be deemed to be
14 in compliance with this act.

15 (2) An income withholding order which does not include a medical
16 withholding order shall require the payor to withhold from any income
17 due, or to become due, to the obligor a specified amount sufficient to
18 satisfy the order of support and to defray any arrearage and shall include
19 notice of and direction to comply with the provisions of K.S.A. 2013
20 Supp. 23-3104 and 23-3105, and amendments thereto.

21 (3) An income withholding order which consists only of a medical
22 withholding order shall include notice of the medical child support order
23 and shall conform to the requirements of K.S.A. 2013 Supp. 23-3116, and
24 amendments thereto. The medical withholding order shall include notice of
25 and direction to comply with the requirements of K.S.A. 2013 Supp. 23-
26 3104, 23-3105, 23-3114 and 23-3117, and amendments thereto.

27 (4) An income withholding order which includes both a medical
28 withholding order and an income withholding order for cash support shall
29 meet the requirements of paragraphs (2) and (3).

30 (f) (1) Upon written request and without the requirement of further
31 notice to the obligor, the clerk of the district court shall cause a copy of the
32 income withholding order to be served on the payor by first-class mail.

33 (2) Without the requirement of further notice to the obligor, the court
34 trustee or IV-D agency may cause a copy of any income withholding order
35 to be served on the payor by first-class mail or by any alternate method
36 acceptable to the payor, including, but not limited to: Facsimile
37 transmission, electronic mail attachment or electronic interface allowing
38 for the download of a document or transmission of the terms of the income
39 withholding order. No payor shall be liable to any person solely because of
40 the method of service accepted by the payor.

41 (3) As used in this section, "copy of the income withholding order"
42 means a copy of any document or notice, regardless of copy format, that
43 advises the payor of the same general duties, requires the same amount to

1 be withheld from income and requires medical withholding to the same
2 extent as the original income withholding order that complies with the
3 requirements of subsection (e)(1).

4 (g) An income withholding order shall be binding on any existing or
5 future payor on whom a copy of the order is served and shall require the
6 continued withholding of income from each periodic payment of income
7 until further order of the court or agency that issued the income
8 withholding order. At any time following issuance of an income
9 withholding order, a copy of the income withholding order may be served
10 on any payor without the requirement of further notice to the obligor.

11 (h) Except as provided in subsection (k) or (m), at any time following
12 entry of an order for support the obligee or public office may serve upon
13 the obligor a written notice of intent to initiate income withholding. If any
14 notice in the court record indicates that title IV-D services are being
15 provided in the case, whether or not the IV-D services include enforcement
16 of current support, the person or public office requesting issuance of the
17 income withholding order shall obtain the consent of the IV-D agency to
18 the terms of the proposed income withholding order.

19 The notice of intent to initiate income withholding shall be served on
20 the obligor by personal service, first-class mail or registered mail, return
21 receipt requested. The notice served on the obligor must state: (1) The
22 terms of the order of support and the total arrearage as of the date the
23 notice was prepared; (2) the amount of income that will be withheld, not
24 including premiums to satisfy a medical withholding order; (3) whether a
25 medical withholding order will be included; (4) that the provision for
26 withholding applies to any current or subsequent payor; (5) the procedures
27 available for contesting the withholding and that the only basis for
28 contesting the withholding is a mistake of fact concerning the amount of
29 the support order, the amount of the arrearage, the amount of income to be
30 withheld or the proper identity of the obligor; (6) the period within which
31 the obligor must act to stay issuance of the income withholding order and
32 that failure to take such action within the specified time will result in
33 payors' being ordered to begin withholding; and (7) the action which will
34 be taken if the obligor contests the withholding.

35 The obligor may, at any time, waive in writing the notice required by
36 this subsection.

37 (i) On request of an obligor, the court shall issue an income
38 withholding order which shall be honored by a payor regardless of whether
39 there is an arrearage. Nothing in this subsection shall limit the right of the
40 obligee to request modification of the income withholding order.

41 (j) (1) In a nontitle IV-D case, upon presentation to the court of a
42 written agreement between the parties providing for an alternative
43 arrangement, no income withholding order shall be issued pursuant to

1 subsection (b). In any case, before entry of a new or modified order for
2 support, a party may request that no income withholding order be issued
3 pursuant to subsection (b) if notice of the request has been served on all
4 interested parties and: (A) The party demonstrates, and the court finds, that
5 there is good cause not to require immediate income withholding; or (B) a
6 written agreement among all interested parties provides for an alternative
7 arrangement. If child support and maintenance payments are both made to
8 an obligee by the same obligor, and if the court has determined that good
9 cause has been shown that direct child support payments to the obligee
10 may be made, then the court shall provide for direct maintenance
11 payments to the obligee and no income withholding order shall be issued
12 pursuant to subsection (b). In a title IV-D case, the determination that there
13 is good cause not to require immediate income withholding must include a
14 finding that immediate income withholding would not be ~~in the child's best~~
15 ~~interests~~ *the least detrimental alternative for the child* and, if an obligor's
16 existing obligation is being modified, proof of timely payment of
17 previously ordered support.

18 (2) Notwithstanding the provisions of subsection (j)(1), the court
19 shall issue an income withholding order when an affidavit pursuant to
20 subsection (d) is filed if an arrearage exists in an amount equal to or
21 greater than the amount of support payable for one month.

22 (3) If a notice pursuant to subsection (h) has been served in a title IV-
23 D case, there is no arrearage or the arrearage is less than the amount of
24 support payable for one month, and the obligor files a motion to stay
25 issuance of the income withholding order based upon the court's previous
26 finding of good cause not to require immediate income withholding
27 pursuant to subsection (j)(1), the obligor must demonstrate the continued
28 existence of good cause. Unless the court again finds that good cause not
29 to require immediate income withholding exists, the court shall issue the
30 income withholding order.

31 (4) If a notice pursuant to subsection (h) has been served in a title IV-
32 D case, there is no arrearage or the arrearage is less than the amount of
33 support payable for one month, and the obligor files a motion to stay
34 issuance of an income withholding order based upon a previous agreement
35 of the interested parties for an alternative arrangement pursuant to
36 subsection (j)(1), the court shall issue an income withholding order,
37 notwithstanding any previous agreement, if the court finds that:

38 (A) The agreement was not in writing;

39 (B) the agreement was not approved by all interested parties;

40 (C) the terms of the agreement or alternative arrangement are not
41 being met;

42 (D) the agreement or alternative arrangement is not ~~in the best~~
43 ~~interests~~ *of the least detrimental alternative for the child*; or

1 (E) the agreement or alternative arrangement places an unnecessary
2 burden upon the obligor, obligee or a public office.

3 (5) The procedures and requirements of K.S.A. 2013 Supp. 23-3106,
4 and amendments thereto, apply to any motion pursuant to paragraph (3) or
5 (4) of this subsection.

6 (k) (1) An ex parte interlocutory order for support may be enforced
7 pursuant to subsection (b) only if the obligor has consented to the income
8 withholding in writing.

9 (2) An ex parte interlocutory order for support may be enforced
10 pursuant to subsection (c) only if 14 or more days have elapsed since the
11 order for support was served on the obligor.

12 (3) Any other interlocutory order for support may be enforced by
13 income withholding pursuant to this act in the same manner as a final
14 order for support.

15 (4) No bond shall be required for the issuance of an income
16 withholding order to enforce an interlocutory order pursuant to this act.

17 (l) All remittances from any income withholding order, regardless of
18 when such order was entered or modified, shall be required to be directed
19 to the central unit for collection and disbursement of support payments
20 designated pursuant to K.S.A. 2013 Supp. 39-7,135, and amendments
21 thereto.

22 (m) All new or modified orders for maintenance of a spouse or ex-
23 spouse, except orders for a spouse or ex-spouse living with a child for
24 whom an order of support is also being enforced, entered on or after July
25 1, 1992, shall include a provision for the withholding of income to enforce
26 the order of support. Unless the parties consent in writing to earlier
27 issuance of a withholding order, withholding shall take effect only after
28 there is an arrearage in an amount equal to or greater than the amount of
29 support payable for two months and after service of a notice as provided in
30 subsection (h).

31 Sec. 114. K.S.A. 2013 Supp. 23-3201 is hereby amended to read as
32 follows: 23-3201. The court shall determine custody or residency of a
33 child in accordance with the ~~best interests of~~ *least detrimental alternative*
34 *for* the child.

35 Sec. 115. K.S.A. 2013 Supp. 23-3202 is hereby amended to read as
36 follows: 23-3202. If the parties have entered into a parenting plan, it shall
37 be presumed that the agreement is ~~in the best interests of~~ *the least*
38 *detrimental alternative for* the child. This presumption may be overcome
39 and the court may make a different order if the court makes specific
40 findings of fact stating why the agreed parenting plan is not ~~in the best~~
41 ~~interests of~~ *the least detrimental alternative for* the child.

42 Sec. 116. K.S.A. 2013 Supp. 23-3203 is hereby amended to read as
43 follows: 23-3203. In determining the issue of child custody, residency and

1 parenting time, the court shall consider all relevant factors, including, but
2 not limited to:

3 (a) The length of time that the child has been under the actual care
4 and control of any person other than a parent and the circumstances
5 relating thereto;

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

7 (c) the desires of the child as to the child's custody or residency;

8 (d) the interaction and interrelationship of the child with parents,
9 siblings and any other person who may significantly affect the ~~child's best~~
10 ~~interests~~ *least detrimental alternative for the child*;

11 (e) the child's adjustment to the child's home, school and community;

12 (f) the willingness and ability of each parent to respect and appreciate
13 the bond between the child and the other parent and to allow for a
14 continuing relationship between the child and the other parent;

15 (g) evidence of spousal abuse;

16 (h) whether a parent is subject to the registration requirements of the
17 Kansas offender registration act, K.S.A. 22-4901 et seq., and amendments
18 thereto, or any similar act in any other state, or under military or federal
19 law;

20 (i) whether a parent has been convicted of abuse of a child, K.S.A.
21 21-3609, prior to its repeal, or K.S.A. 2013 Supp. 21-5602, and
22 amendments thereto;

23 (j) whether a parent is residing with an individual who is subject to
24 registration requirements of the Kansas offender registration act, K.S.A.
25 22-4901 et seq., and amendments thereto, or any similar act in any other
26 state, or under military or federal law; and

27 (k) whether a parent is residing with an individual who has been
28 convicted of abuse of a child, K.S.A. 21-3609, prior to its repeal, or K.S.A.
29 2013 Supp. 21-5602, and amendments thereto.

30 Sec. 117. K.S.A. 2013 Supp. 23-3205 is hereby amended to read as
31 follows: 23-3205. There shall be a rebuttable presumption that it is not ~~in~~
32 ~~the best interest of~~ *the least detrimental alternative* for the child to have
33 custody or residency granted to a parent who: (a) Is residing with an
34 individual who is subject to registration requirements of the Kansas
35 offender registration act, K.S.A. 22-4901 et seq., and amendments thereto,
36 or any similar act in any other state, or under military or federal law; or

37 (b) is residing with an individual who has been convicted of abuse of
38 a child, K.S.A. 21-3609, prior to its repeal, or K.S.A. 2013 Supp. 21-5602,
39 and amendments thereto.

40 Sec. 118. K.S.A. 2013 Supp. 23-3206 is hereby amended to read as
41 follows: 23-3206. Subject to the provisions of this article, the court may
42 make any order relating to custodial arrangements which is ~~in the best~~
43 ~~interests of~~ *the least detrimental alternative* for the child. The order shall

1 provide one of the following legal custody arrangements, in the order of
2 preference:

3 (a) Joint legal custody. The court may order the joint legal custody of
4 a child with both parties. In that event, the parties shall have equal rights to
5 make decisions ~~in the best interests of~~ *that are the least detrimental*
6 *alternative for the child.*

7 (b) Sole legal custody. The court may order the sole legal custody of a
8 child with one of the parties when the court finds that it is not ~~in the best~~
9 ~~interests of~~ *the least detrimental alternative for the child* that both of the
10 parties have equal rights to make decisions pertaining to the child. If the
11 court does not order joint legal custody, the court shall include on the
12 record specific findings of fact upon which the order for sole legal custody
13 is based. The award of sole legal custody to one parent shall not deprive
14 the other parent of access to information regarding the child unless the
15 court shall so order, stating the reasons for that determination.

16 Sec. 119. K.S.A. 2013 Supp. 23-3207 is hereby amended to read as
17 follows: 23-3207. After making a determination of the legal custodial
18 arrangements, the court shall determine the residency of the child from the
19 following options, which arrangement the court must find to be ~~in the best~~
20 ~~interest of~~ *the least detrimental alternative for the child*. The parties shall
21 submit to the court either an agreed parenting plan or, in the case of
22 dispute, proposed parenting plans for the court's consideration. Such
23 options are:

24 (a) *Residency*. The court may order a residential arrangement in
25 which the child resides with one or both parents on a basis consistent with
26 ~~the best interests of~~ *least detrimental alternative for the child.*

27 (b) *Divided residency*. In an exceptional case, the court may order a
28 residential arrangement in which one or more children reside with each
29 parent and have parenting time with the other.

30 (c) *Nonparental residency*. If during the proceedings the court
31 determines that there is probable cause to believe that the child is a child in
32 need of care as defined by subsections (d)(1), (d)(2), (d)(3) or (d)(11) of
33 K.S.A. 2013 Supp. 38-2202, and amendments thereto, or that neither
34 parent is fit to have residency, the court may award temporary residency of
35 the child to a grandparent, aunt, uncle or adult sibling, or, another person
36 or agency if the court finds by written order that:

37 (1) (A) The child is likely to sustain harm if not immediately removed
38 from the home;

39 (B) allowing the child to remain in the home is contrary to the
40 welfare of the child; or

41 (C) immediate placement of the child is ~~in the best interest of~~ *the*
42 *least detrimental alternative for the child*; and

43 (2) reasonable efforts have been made to maintain the family unit and

1 prevent the unnecessary removal of the child from the child's home or that
2 an emergency exists which threatens the safety of the child. In making
3 such a residency order, the court shall give preference, to the extent that
4 the court finds it is ~~in the best interests of~~ *the least detrimental alternative*
5 *for* the child, first to awarding such residency to a relative of the child by
6 blood, marriage or adoption and second to awarding such residency to
7 another person with whom the child has close emotional ties. The court
8 may make temporary orders for care, support, education and visitation that
9 it considers appropriate. Temporary residency orders are to be entered in
10 lieu of temporary orders provided for in K.S.A. 2013 Supp. 38-2243 and
11 38-2244, and amendments thereto, and shall remain in effect until there is
12 a final determination under the revised Kansas code for care of children.
13 An award of temporary residency under this paragraph shall not terminate
14 parental rights nor give the court the authority to consent to the adoption of
15 the child. When the court enters orders awarding temporary residency of
16 the child to an agency or a person other than the parent, the court shall
17 refer a transcript of the proceedings to the county or district attorney. The
18 county or district attorney shall file a petition as provided in K.S.A. 2013
19 Supp. 38-2234, and amendments thereto, and may request termination of
20 parental rights pursuant to K.S.A. 2013 Supp. 38-2266, and amendments
21 thereto. The costs of the proceedings shall be paid from the general fund of
22 the county. When a final determination is made that the child is not a child
23 in need of care, the county or district attorney shall notify the court in
24 writing and the court, after a hearing, shall enter appropriate custody
25 orders pursuant to this article. If the same judge presides over both
26 proceedings, the notice is not required. Any order pursuant to the revised
27 Kansas code for care of children shall take precedence over any order
28 under this article.

29 Sec. 120. K.S.A. 2013 Supp. 23-3210 is hereby amended to read as
30 follows: 23-3210. (a) *Investigation and report*. In any proceeding in which
31 legal custody, residency, visitation rights or parenting time are contested,
32 the court may order an investigation and report concerning the appropriate
33 legal custody, residency, visitation rights and parenting time to be granted
34 to the parties. The investigation and report may be made by court services
35 officers or any consenting person or agency employed by the court for that
36 purpose. The court may use the ~~department of social and rehabilitation~~
37 ~~services~~ *Kansas department for children and families* to make the
38 investigation and report if no other source is available for that purpose.
39 The costs for making the investigation and report may be assessed as court
40 costs in the case as provided in article 20 of chapter 60 of the Kansas
41 Statutes Annotated, and amendments thereto.

42 (b) *Consultation*. In preparing the report concerning a child, the
43 investigator may consult any person who may have information about the

1 child and the potential legal custodial arrangements. Upon order of the
2 court, the investigator may refer the child to other professionals for
3 diagnosis. The investigator may consult with and obtain information from
4 medical, psychiatric or other expert persons who have served the child in
5 the past. If the requirements of subsection (c) are fulfilled, the
6 investigator's report may be received in evidence at the hearing.

7 (c) *Use of report and investigator's testimony.* The court shall make
8 the investigator's report available prior to the hearing to counsel or to any
9 party not represented by counsel. Upon motion of either party, the report
10 may be made available to a party represented by counsel, unless the court
11 finds that such distribution would be harmful to either party, the child or
12 other witnesses. Any party to the proceeding may call the investigator and
13 any person whom the investigator has consulted for cross-examination. In
14 consideration of the mental health ~~of or best interests of the least~~
15 ~~detrimental alternative for~~ the child, the court may approve a stipulation
16 that the interview records not be divulged to the parties.

17 Sec. 121. K.S.A. 2013 Supp. 23-3211 is hereby amended to read as
18 follows: 23-3211. (a) "Temporary parenting plan" means an agreement or
19 order issued defining the legal custody, residency and parenting time to be
20 exercised by parents with regard to a child between the time of filing of a
21 matter in which a parenting plan may be entered, and any other provisions
22 regarding the child's care which may be ~~in the best interest of the least~~
23 ~~detrimental alternative for~~ the child, until a final order is issued.

24 (b) "Permanent parenting plan" means an agreement between parents
25 which is incorporated into an order at a final hearing or an order or decree
26 issued at a final hearing without agreement that establishes legal custody,
27 residency, parenting time and other matters regarding a child custody
28 arrangement in a matter in which a parenting plan may be entered.

29 (c) "Legal custody" means the allocation of parenting responsibilities
30 between parents, or any person acting as a parent, including decision
31 making rights and responsibilities pertaining to matters of child health,
32 education and welfare.

33 Sec. 122. K.S.A. 2013 Supp. 23-3212 is hereby amended to read as
34 follows: 23-3212. (a) The court may enter a temporary parenting plan in
35 any case in which temporary orders relating to child custody is authorized.

36 (b) If the court deems it appropriate, a temporary parenting plan
37 approved by the court may include one or more of the following
38 provisions regarding children involved in the matter before the court:

- 39 (1) Designation of the temporary legal custody of the child;
- 40 (2) designation of a temporary residence for the child;
- 41 (3) allocation of parental rights and responsibilities regarding matters
42 pertaining to the child's health, education and welfare;
- 43 (4) a schedule for the child's time with each parent, when appropriate.

1 (c) A parent seeking a temporary order in which matters of child
2 custody, residency, or parenting time are included shall file a proposed
3 temporary parenting plan contemporaneous with any request for issuance
4 of such temporary orders, which plan shall be served with any such
5 temporary orders.

6 (d) If the parent who has not filed a proposed temporary parenting
7 plan disputes the allocation of parenting responsibilities, residency,
8 parenting time or other matters included in the proposed temporary
9 parenting plan, that parent shall file and serve a responsive proposed
10 temporary parenting plan.

11 (e) Either parent may move to have a proposed temporary parenting
12 plan entered as part of a temporary order. The parents may enter an agreed
13 temporary parenting plan at any time as part of a temporary order.

14 (f) A parent may move for amendment of a temporary parenting plan,
15 and the court may order amendment to the temporary parenting plan, if the
16 amendment is ~~in the best interest of~~ *the least detrimental alternative for*
17 *the child.*

18 (g) If a proceeding for divorce, separate maintenance, annulment or
19 determination of parentage is dismissed, any temporary parenting plan is
20 vacated.

21 Sec. 123. K.S.A. 2013 Supp. 23-3213 is hereby amended to read as
22 follows: 23-3213. (a) The objectives of the permanent parenting plan are to:
23

24 (1) Establish a proper allocation of parental rights and
25 responsibilities;

26 (2) establish an appropriate working relationship between the parents
27 such that matters regarding the health, education and welfare of their child
28 is best determined;

29 (3) provide for the child's physical care;

30 (4) set forth an appropriate schedule of parenting time;

31 (5) maintain the child's emotional stability;

32 (6) provide for the child's changing needs as the child grows and
33 matures in a way that minimizes the need for future modifications to the
34 permanent parenting plan;

35 (7) minimize the child's exposure to harmful parental conflict;

36 (8) encourage the parents, where appropriate, to meet their
37 responsibilities to their minor children through agreements in the
38 permanent parenting plan, rather than by relying on judicial intervention;
39 and

40 (9) ~~otherwise protect the best interests of~~ *provide for the least*
41 *detrimental alternative for* the child.

42 (b) A permanent parenting plan may consist of a general outline of
43 how parental responsibilities and parenting time will be shared and may

1 allow the parents to develop a more detailed agreement on an informal
2 basis; however, a permanent parenting plan must set forth the following
3 minimum provisions:

4 (1) Designation of the legal custodial relationship of the child;
5 (2) a schedule for the child's time with each parent, when appropriate;
6 (3) a provision for a procedure by which disputes between the parents
7 may be resolved without need for court intervention; and

8 (4) if either parent is a service member, as defined in K.S.A. 2013
9 Supp. 23-3217, and amendments thereto, provisions for custody and
10 parenting time upon military deployment, mobilization, temporary duty or
11 unaccompanied tour of such service member.

12 (c) A detailed permanent parenting plan shall include those provisions
13 required by subsection (b), and may include, but need not be limited to,
14 provisions relating to:

15 (1) Residential schedule;
16 (2) holiday, birthday and vacation planning;
17 (3) weekends, including holidays and school inservice days preceding
18 or following weekends;

19 (4) allocation of parental rights and responsibilities regarding matters
20 pertaining to the child's health, education and welfare;

21 (5) sharing of and access to information regarding the child;

22 (6) relocation of parents;

23 (7) telephone access;

24 (8) transportation; and

25 (9) methods for resolving disputes.

26 (d) The court shall develop a permanent parenting plan, which may
27 include such detailed provisions as the court deems appropriate, when:

28 (1) So requested by either parent; or

29 (2) the parent or parents are unable to develop a parenting plan.

30 Sec. 124. K.S.A. 2013 Supp. 23-3217 is hereby amended to read as
31 follows: 23-3217. (a) As used in this section:

32 (1) "Deployment" means the temporary transfer of a service member
33 serving in an active-duty status to another location in support of combat or
34 some other military operation.

35 (2) "Mobilization" means the call-up of a national guard or reserve
36 service member to extended active-duty status. "Mobilization" does not
37 include national guard or reserve annual training.

38 (3) "Service member" means any member serving in an active-duty
39 status in the armed forces of the United States, the national guard or the
40 armed forces reserves.

41 (4) "Temporary duty" means the transfer of a service member from
42 one military base to a different location for a limited period of time to
43 accomplish training or to assist in the performance of a noncombat

1 mission.

2 (5) "Unaccompanied tour" means a permanent change of station for a
3 service member where dependent travel is not authorized.

4 (6) "Nondeploying parent" means the parent not subject to
5 deployment, mobilization, temporary duty or unaccompanied tour orders
6 from the military.

7 (b) The absence, relocation or failure to comply with a custody or
8 parenting time order by a parent who has received deployment,
9 mobilization, temporary duty or unaccompanied tour orders from the
10 military, shall not, by itself, constitute a material change in circumstances
11 warranting a permanent modification of a custody or parenting time order.

12 (c) Any court order limiting previously ordered custodial or parenting
13 time rights of a parent due to the parent's deployment, mobilization,
14 temporary duty or unaccompanied tour shall specify the deployment,
15 mobilization, temporary duty or unaccompanied tour as the basis for the
16 order and shall be entered by the court as a temporary order. Any such
17 order shall further require the nondeploying parent to provide the court
18 with 30 days advance written notice of any change of address and any
19 change of telephone number.

20 (d) The court, on motion of the parent returning from deployment,
21 mobilization, temporary duty or unaccompanied tour, seeking to amend or
22 review the custody or parenting time order based upon such deployment,
23 mobilization, temporary duty or unaccompanied tour, shall set a hearing on
24 the matter that shall take precedence on the court's docket and shall be set
25 within 30 days of the filing of the motion. Service on the nondeploying
26 parent shall be at such nondeploying parent's last address provided to the
27 court in writing. Such service, if otherwise sufficient, shall be deemed
28 sufficient for the purposes of notice for this subsection. For purposes of
29 this hearing, such nondeploying parent shall bear the burden of showing
30 that reentry of the custody or parenting time order in effect prior to
31 deployment, mobilization, temporary duty or unaccompanied tour is no
32 longer ~~in the best interests of~~ *the least detrimental alternative* for the child.

33 (e) If the parties in a custody or parenting time matter concerning a
34 parent who receives deployment, mobilization, temporary duty or
35 unaccompanied tour orders from the military have entered into a parenting
36 plan pursuant to K.S.A. 2013 Supp. 23-3213, and amendments thereto,
37 that includes provisions for custody and parenting time upon military
38 deployment, mobilization, temporary duty or unaccompanied tour, it shall
39 be presumed that the agreement is ~~in the best interests of~~ *the least*
40 *detrimental alternative* for the child. This presumption may be overcome
41 and the court may make a different order if the court makes specific
42 findings of fact stating why the agreed parenting plan is not ~~in the best~~
43 ~~interests of~~ *the least detrimental alternative* for the child.

1 (f) If a parent with parenting time rights receives deployment,
2 mobilization, temporary duty or unaccompanied tour orders from the
3 military that involve moving a substantial distance from the parent's
4 residence or otherwise have a material effect on the parent's ability to
5 exercise parenting time rights, the court may delegate the parent's
6 parenting time rights, or a portion thereof, to a member or members of the
7 service member's family with a close and substantial relationship to the
8 minor child for the duration of the parent's absence, if delegating parenting
9 time rights is ~~in the best interests of~~ *the least detrimental alternative for*
10 the child.

11 (g) Upon motion of a parent who has received deployment,
12 mobilization, temporary duty or unaccompanied tour orders from the
13 military, the court shall, for good cause shown, hold an expedited hearing
14 in custody and parenting time matters instituted under this section when
15 the military duties of the parent have a material effect on the parent's
16 ability, or anticipated ability, to appear in person at a regularly scheduled
17 hearing.

18 (h) Nothing in this section shall preclude a parent from petitioning for
19 a modification of a custody or parenting time order based upon a material
20 change in circumstances.

21 (i) Any order entered pursuant to this section shall provide that:

22 (1) The nondeploying parent shall reasonably accommodate the leave
23 schedule of the parent subject to deployment, mobilization, temporary duty
24 or unaccompanied tour orders;

25 (2) the nondeploying parent shall facilitate opportunities for
26 telephonic and electronic mail contact between the parent subject to
27 deployment, mobilization, temporary duty or unaccompanied tour orders
28 and the child during the period of such deployment, mobilization,
29 temporary duty or unaccompanied tour; and

30 (3) the parent subject to deployment, mobilization, temporary duty or
31 unaccompanied tour shall provide timely information regarding such
32 parent's leave schedule to the nondeploying parent. Willful violation of
33 such order shall constitute contempt of court.

34 (j) Nothing in this section shall alter the duty of the court to
35 determine custody or parenting time matters in accordance with the ~~best~~
36 ~~interests of~~ *least detrimental alternative for* the child.

37 Sec. 125. K.S.A. 2013 Supp. 23-3221 is hereby amended to read as
38 follows: 23-3221. (a) The court may modify an order granting or denying
39 parenting time whenever modification would serve the ~~best interests of~~
40 *least detrimental alternative for* the child.

41 (b) Repeated unreasonable denial of or interference with parenting
42 time granted under this article may be considered a material change of
43 circumstances which justifies modification of a prior order of legal

1 custody, residency or parenting time.

2 (c) Any party may petition the court to modify an order granting
3 parenting time to require that the exchange or transfer of children for
4 parenting time take place at a child exchange and visitation center, as
5 established in K.S.A. 75-720, and amendments thereto.

6 Sec. 126. K.S.A. 2013 Supp. 23-3222 is hereby amended to read as
7 follows: 23-3222. (a) Except as provided in subsection (d), a parent
8 entitled to legal custody or residency of or parenting time with a child
9 under this article shall give written notice to the other parent not less than
10 30 days prior to: (1) Changing the residence of the child; or (2) removing
11 the child from this state for a period of time exceeding 90 days. Such
12 notice shall be sent by restricted mail, return receipt requested, to the last
13 known address of the other parent.

14 (b) Failure to give notice as required by subsection (a) is an indirect
15 civil contempt punishable as provided by law. In addition, the court may
16 assess, against the parent required to give notice, reasonable attorney fees
17 and any other expenses incurred by the other parent by reason of the
18 failure to give notice.

19 (c) A change of the residence or the removal of a child as described in
20 subsection (a) may be considered a material change of circumstances
21 which justifies modification of a prior order of legal custody, residency,
22 child support or parenting time. In determining any motion seeking a
23 modification of a prior order based on change of residence or removal as
24 described in (a), the court shall consider all factors the court deems
25 appropriate including, but not limited to: (1) *Whether* the effect of the
26 ~~move on the best interests of~~ *is the least detrimental alternative for* the
27 child; (2) the effect of the move on any party having rights granted under
28 this article; and (3) the increased cost the move will impose on any party
29 seeking to exercise rights granted under this article.

30 (d) A parent entitled to the legal custody or residency of a child under
31 this article shall not be required to give the notice required by this section
32 to the other parent when the other parent has been convicted of any crime
33 specified in article 34, 35 or 36 of chapter 21 of the Kansas Statutes
34 Annotated, prior to their repeal, or K.S.A. 2013 Supp. 21-5401 through 21-
35 5609, 21-6104, 21-6325, 21-6326, 21-6419, 21-6420 or 21-6421, and
36 amendments thereto, in which the child is the victim of such crime.

37 Sec. 127. K.S.A. 2013 Supp. 23-3301 is hereby amended to read as
38 follows: 23-3301. (a) In an action under article 27 of chapter 23 of the
39 Kansas Statutes Annotated, and amendments thereto, grandparents and
40 stepparents may be granted visitation rights.

41 (b) The district court may grant the grandparents of an unmarried
42 minor child reasonable visitation rights to the child during the child's
43 minority upon a finding that the visitation rights would be ~~in the child's~~

1 ~~best interests~~ *the least detrimental alternative for the child* and when a
2 substantial relationship between the child and the grandparent has been
3 established.

4 (c) The district court may grant the parents of a deceased person
5 visitation rights, or may enforce visitation rights previously granted,
6 pursuant to this section, even if the surviving parent has remarried and the
7 surviving parent's spouse has adopted the child. Visitation rights may be
8 granted pursuant to this subsection without regard to whether the adoption
9 of the child occurred before or after the effective date of this act.

10 Sec. 128. K.S.A. 2013 Supp. 23-3302 is hereby amended to read as
11 follows: 23-3302.

12 (a) The court may modify an order granting or denying parenting
13 time or visitation rights whenever modification would ~~serve the best~~
14 ~~interests of~~ *be the least detrimental alternative for the child*.

15 (b) Repeated unreasonable denial of or interference with visitation
16 rights or parenting time granted under K.S.A. 2013 Supp. 23-2711, and
17 amendments thereto, may be considered a material change of
18 circumstances which justifies modification of a prior order of legal
19 custody, residency or visitation rights.

20 (c) (1) The court may order exchange or visitation to take place at a
21 child exchange and visitation center, as established in K.S.A. 75-720, and
22 amendments thereto.

23 (2) Any party may petition the court to modify an order granting
24 visitation rights to require that the exchange or transfer of children for
25 visitation take place at a child exchange and visitation center, as
26 established in K.S.A. 75-720, and amendments thereto. The court may
27 modify an order granting visitation whenever modification would serve *as*
28 ~~the best interests of~~ *least detrimental alternative for the child*.

29 Sec. 129. K.S.A. 2013 Supp. 23-3403 is hereby amended to read as
30 follows: 23-3403. (a) Any custody or parenting time order, or order
31 relating to the ~~best interests of~~ *least detrimental alternative for* a child,
32 issued pursuant to the revised Kansas code for care of children or the
33 revised Kansas juvenile justice code, shall take precedence over any order
34 under article 32 or 33 of chapter 23 of the Kansas Statutes Annotated, and
35 amendments thereto, or K.S.A. 60-1610, prior to its repeal, until
36 jurisdiction under the revised Kansas code for care of children or the
37 revised Kansas juvenile justice code is terminated.

38 (b) An order granting visitation rights under article 33 of chapter 23
39 of the Kansas Statutes Annotated, and amendments thereto, or parenting
40 time under article 32 of chapter 23 of the Kansas Statutes Annotated, and
41 amendments thereto, may be enforced in accordance with the uniform
42 child custody jurisdiction and enforcement act, or this article.

43 Sec. 130. K.S.A. 2013 Supp. 23-3503 is hereby amended to read as

1 follows: 23-3503. (a) A mediator appointed under K.S.A. 2013 Supp. 23-
2 3502, and amendments thereto, shall:

3 (1) Inform the parties of the costs of mediation;
4 (2) advise the parties that the mediator does not represent either or
5 both of the parties;

6 (3) define and describe the process of mediation to the parties;

7 (4) disclose the nature and extent of any relationships with the parties
8 and any personal, financial or other interests which could result in bias or a
9 conflict of interest;

10 (5) advise each of the parties to obtain independent legal advice;

11 (6) allow only the parties to attend the mediation sessions;

12 (7) disclose to the parties' attorneys any factual documentation
13 revealed during the mediation if at the end of the mediation process the
14 disclosure is agreed to by the parties;

15 (8) ensure that the parties consider fully the ~~best interests of~~ *least*
16 *detrimental alternative* for the children and that the parties understand the
17 consequences of any decision they reach concerning the children; and

18 (9) inform the parties of the extent to which information obtained
19 from and about the participants through the mediation process is not
20 privileged and may be subject to disclosure.

21 (b) The mediator may meet with the children of any party and, with
22 the consent of the parties, may meet with other persons.

23 (c) The mediator shall make a written summary of any understanding
24 reached by the parties. A copy of the summary shall be provided to the
25 parties and their attorneys, if any. The mediator shall advise each party in
26 writing to obtain legal assistance in drafting any agreement or for
27 reviewing any agreement drafted by the other party. Any understanding
28 reached by the parties as a result of mediation shall not be binding upon
29 the parties nor admissible in court until it is reduced to writing, signed by
30 the parties and their attorneys, if any, and approved by the court. If the
31 parties are not represented by attorneys, the mediator shall provide to the
32 court or hearing officer the written summary of any understanding signed
33 by the parties, which, if approved by the court or hearing officer, shall be
34 incorporated in the order of the court or hearing officer.

35 (d) The mediator may act as a mediator in subsequent disputes
36 between the parties. However, the mediator shall decline to act as attorney,
37 counselor or psychotherapist for either party during or after the mediation
38 or divorce proceedings unless the subsequent representation, counseling or
39 treatment is clearly distinct from the mediation issues.

40 Sec. 131. K.S.A. 2013 Supp. 23-3510 is hereby amended to read as
41 follows: 23-3510. (a) *Family counseling*. At any time prior or subsequent
42 to the alteration of the parties' marital status, the court may order that any
43 party or parties and any of their children be interviewed by a psychiatrist,

1 licensed psychologist or other trained professional in family counseling,
2 approved by the court, for the purpose of determining whether it is ~~in the~~
3 ~~best interests of~~ *the least detrimental alternative for* any of the parties'
4 children that the parties and any of their children have counseling
5 regarding matters of legal custody, residency, visitation or parenting time.
6 The court shall receive the written opinion of the professional, and the
7 court shall make the opinion available as provided by K.S.A. 2013 Supp.
8 23-3210, and amendments thereto. Any professional consulted by the court
9 under this section may be examined as a witness. If the opinion of the
10 professional is that counseling is ~~in the best interests of~~ *the least*
11 *detrimental alternative for* any of the children, the court may order the
12 parties and any of the children to obtain counseling. Neither party shall be
13 required to obtain counseling pursuant to this section if the party objects
14 thereto because the counseling conflicts with sincerely held religious
15 tenets and practices to which any party is an adherent.

16 (b) *Costs*. The costs of the counseling shall be taxed to either party as
17 equity and justice require.

18 Sec. 132. K.S.A. 2013 Supp. 38-2302 is hereby amended to read as
19 follows: 38-2302. As used in this code, unless the context otherwise
20 requires:

21 (a) "Commissioner" means the commissioner of juvenile justice or
22 the commissioner's designee.

23 (b) "Conditional release" means release from a term of commitment
24 in a juvenile correctional facility for an aftercare term pursuant to K.S.A.
25 2013 Supp. 38-2369, and amendments thereto, under conditions
26 established by the commissioner.

27 (c) "Court-appointed special advocate" means a responsible adult,
28 other than an attorney appointed pursuant to K.S.A. 2013 Supp. 38-2306,
29 and amendments thereto, who is appointed by the court to represent the
30 ~~best interests of a~~ *least detrimental alternative for the* child, as provided
31 in K.S.A. 2013 Supp. 38-2307, and amendments thereto, in a proceeding
32 pursuant to this code.

33 (d) "Educational institution" means all schools at the elementary and
34 secondary levels.

35 (e) "Educator" means any administrator, teacher or other professional
36 or paraprofessional employee of an educational institution who has
37 exposure to a pupil specified in subsections (a)(1) through (5) of K.S.A.
38 72-89b03, and amendments thereto.

39 (f) "Institution" means the following institutions: The Atchison
40 juvenile correctional facility, the Larned juvenile correctional facility and
41 the Kansas juvenile correctional complex.

42 (g) "Investigator" means an employee of the juvenile justice authority
43 assigned by the commissioner with the responsibility for investigations

1 concerning employees at the juvenile correctional facilities and juveniles
2 in the custody of the commissioner at a juvenile correctional facility.

3 (h) "Jail" means: (1) An adult jail or lockup; or

4 (2) a facility in the same building as an adult jail or lockup, unless the
5 facility meets all applicable licensure requirements under law and there is:
6 (A) Total separation of the juvenile and adult facility spatial areas such that
7 there could be no haphazard or accidental contact between juvenile and
8 adult residents in the respective facilities; (B) total separation in all
9 juvenile and adult program activities within the facilities, including
10 recreation, education, counseling, health care, dining, sleeping and general
11 living activities; and (C) separate juvenile and adult staff, including
12 management, security staff and direct care staff such as recreational,
13 educational and counseling.

14 (i) "Juvenile" means a person to whom one or more of the following
15 applies, the person: (1) Is 10 or more years of age but less than 18 years of
16 age; (2) is alleged to be a juvenile offender; or (3) has been adjudicated as
17 a juvenile offender and continues to be subject to the jurisdiction of the
18 court.

19 (j) "Juvenile correctional facility" means a facility operated by the
20 commissioner for the commitment of juvenile offenders.

21 (k) "Juvenile corrections officer" means a certified employee of the
22 juvenile justice authority working at a juvenile correctional facility
23 assigned by the commissioner with responsibility for maintaining custody,
24 security and control of juveniles in the custody of the commissioner at a
25 juvenile correctional facility.

26 (l) "Juvenile detention facility" means a public or private facility
27 licensed pursuant to article 5 of chapter 65 of the Kansas Statutes
28 Annotated, and amendments thereto, which is used for the lawful custody
29 of alleged or adjudicated juvenile offenders.

30 (m) "Juvenile intake and assessment worker" means a responsible
31 adult authorized to perform intake and assessment services as part of the
32 intake and assessment system established pursuant to K.S.A. 75-7023, and
33 amendments thereto.

34 (n) "Juvenile offender" means a person who commits an offense
35 while 10 or more years of age but less than 18 years of age which if
36 committed by an adult would constitute the commission of a felony or
37 misdemeanor as defined by K.S.A. 2013 Supp. 21-5102, and amendments
38 thereto, or who violates the provisions of K.S.A. 41-727, subsection (j) of
39 K.S.A. 74-8810 or subsection (a)(14) of K.S.A. 2013 Supp. 21-6301, and
40 amendments thereto, but does not include: (1) A person 14 or more years
41 of age who commits a traffic offense, as defined in subsection (d) of
42 K.S.A. 8-2117, and amendments thereto;

43 (2) a person 16 years of age or over who commits an offense defined

1 in chapter 32 of the Kansas Statutes Annotated, and amendments thereto;

2 (3) a person under 18 years of age who previously has been:

3 (A) Convicted as an adult under the Kansas criminal code;

4 (B) sentenced as an adult under the Kansas criminal code following
5 termination of status as an extended jurisdiction juvenile pursuant to
6 K.S.A. 2013 Supp. 38-2364, and amendments thereto; or

7 (C) convicted or sentenced as an adult in another state or foreign
8 jurisdiction under substantially similar procedures described in K.S.A.
9 2013 Supp. 38-2347, and amendments thereto, or because of attaining the
10 age of majority designated in that state or jurisdiction.

11 (o) "Law enforcement officer" means any person who by virtue of
12 that person's office or public employment is vested by law with a duty to
13 maintain public order or to make arrests for crimes, whether that duty
14 extends to all crimes or is limited to specific crimes.

15 (p) "Parent" when used in relation to a juvenile, includes a guardian
16 and every person who is, by law, liable to maintain, care for or support the
17 juvenile.

18 (q) "Risk assessment tool" means an instrument administered to
19 juveniles which delivers a score, or group of scores, describing, but not
20 limited to describing, the juvenile's potential risk to the community.

21 (r) "Sanctions house" means a facility which is operated or structured
22 so as to ensure that all entrances and exits from the facility are under the
23 exclusive control of the staff of the facility, whether or not the person
24 being detained has freedom of movement within the perimeters of the
25 facility, or which relies on locked rooms and buildings, fences or physical
26 restraint in order to control the behavior of its residents. Upon an order
27 from the court, a licensed juvenile detention facility may serve as a
28 sanctions house.

29 (s) "Warrant" means a written order by a judge of the court directed to
30 any law enforcement officer commanding the officer to take into custody
31 the juvenile named or described therein.

32 (t) "Youth residential facility" means any home, foster home or
33 structure which provides 24-hour-a-day care for juveniles and which is
34 licensed pursuant to article 5 of chapter 65 or article 70 of chapter 75 of
35 the Kansas Statutes Annotated, and amendments thereto.

36 Sec. 133. K.S.A. 2013 Supp. 39-7,145 is hereby amended to read as
37 follows: 39-7,145. (a) This section shall not apply if an action to establish
38 the father's duty of support on behalf of the child is pending before any
39 tribunal. As used in this section, "mother" means the natural mother of the
40 child whose parentage is in issue.

41 (b) Except as otherwise provided in subsection (d), genetic tests may
42 be ordered by the secretary if the alleged father consents and the necessary
43 persons are available for testing. Except as otherwise provided in

1 subsection (e), the secretary shall pay the costs of genetic tests, subject to
2 recoupment from the father if paternity is established. For purposes of this
3 section, a person receiving title IV-D services is not available for testing if
4 a claim for good cause not to cooperate under title IV-D is pending or has
5 been determined in the person's favor or if the person ceases to receive title
6 IV-D services for any reason.

7 (c) A copy of the order for genetic tests shall be served upon persons
8 required to comply with the order only by personal service or registered
9 mail, return receipt requested. The order shall specify the time and place
10 the person is required to appear for testing, which shall be at least ten days
11 after the date the order is entered.

12 (d) If a presumption of paternity arises pursuant to subsection (a) of
13 K.S.A. 2013 Supp. 23-2208, and amendments thereto, because the mother
14 married or attempted to marry any man, the secretary shall not order
15 genetic testing unless a court of this state or an appropriate tribunal in
16 another state has found that determining the child's biological father is ~~is~~
17 ~~the child's best interests~~ *the least detrimental alternative for the child*. If a
18 tribunal subsequently determines that the prohibition of this subsection
19 applied at the time genetic tests were ordered by the secretary, any support
20 order based in whole or in part upon the genetic tests may be set aside only
21 as provided in K.S.A. 60-260, and amendments thereto.

22 (e) Upon receiving the results of genetic testing, the secretary shall
23 promptly send a copy of the results to the parties, together with notice of
24 the time limits for requesting any additional genetic tests or for
25 challenging the results pursuant to K.S.A. 2013 Supp. 23-2212, and
26 amendments thereto, how to make such request or challenge, and any
27 associated costs. The notice shall state the consequences pursuant to
28 K.S.A. 2013 Supp. 23-2212, and amendments thereto, of failing to act
29 within the time allowed by the statute. Any additional genetic tests shall be
30 at the expense of the person making the request for additional genetic tests.
31 Failure of the person requesting additional tests to make advance payment
32 as required by the secretary shall be deemed withdrawal of the request.

33 (f) Any person required to comply with an order issued pursuant to
34 this section may request: (1) An administrative hearing pursuant to K.S.A.
35 75-3306, and amendments thereto, by complying with procedures
36 established by the secretary within ten days after entry of the order; or (2)
37 a de novo court review pursuant to K.S.A. 39-7,139, and amendments
38 thereto. If the order is served on the person by mail, the time for requesting
39 review shall be extended by three days. An order issued pursuant to this
40 section shall be subject to defenses that would apply if the order had been
41 issued by a court of this state. If the request for review is made within the
42 time allowed, the effect of the order shall be stayed with respect to the
43 person requesting review pending resolution of the review.

1 (g) An order issued pursuant to this section whose effect has not been
2 stayed may be enforced pursuant to the civil enforcement provisions of the
3 Kansas judicial review act, K.S.A. 77-601 et seq., and amendments
4 thereto, after the time for compliance with the order has expired.

5 Sec. 134. K.S.A. 39-7,149 is hereby amended to read as follows: 39-
6 7,149. (a) The responsible parent may request: (1) An administrative
7 hearing pursuant to K.S.A. 75-3306, and amendments thereto, for review
8 of a notice of intent to initiate income withholding served pursuant to
9 K.S.A. 39-7,147, and amendments thereto, by complying with procedures
10 established by the secretary within seven days after service of the notice of
11 intent; or (2) a de novo court review pursuant to K.S.A. 39-7,139, and
12 amendments thereto. If the notice is served by mail, the time for requesting
13 review shall be extended by three days. The request for review shall
14 specify the mistake of fact alleged to be the basis for the stay or any
15 applicable defense under this section. If the amount of the current support
16 order or the amount of arrearages is challenged, the request shall specify
17 the amount that is uncontested.

18 (b) The issues on review shall be limited to whether a mistake of fact
19 existed at the time the notice to the responsible parent was prepared or, if
20 specified in the request for review, whether a defense exists under this
21 section. As used in this section, "mistake of fact" means an incorrect
22 statement of the amount of current support due, the amount of arrearages,
23 the amount of income to be withheld or the identity of the responsible
24 parent.

25 (c) Except as otherwise provided in this subsection, the presiding
26 officer shall immediately authorize issuance of an income withholding
27 order upon request of the secretary if the identity of the responsible parent
28 is not contested and the uncontested facts in the case show that the
29 requirements of subsection (d) of K.S.A. 39-7,147, and amendments
30 thereto, have been met. If a defense under subsection (g) has been alleged,
31 the presiding officer shall authorize immediate issuance of an income
32 withholding order only if the uncontested arrearages equal or exceed the
33 amount of support due for one month. A copy of the request shall be
34 served on the responsible parent. The income withholding order authorized
35 by this subsection shall specify an amount sufficient to satisfy the order for
36 current support and to defray any arrearages, but only to the extent that
37 each amount is not contested. Any income withholding order issued
38 pursuant to this subsection shall be effective until modified or terminated.

39 (d) Entry of the income withholding order may be stayed only to the
40 extent permitted by the income withholding act, and amendments thereto,
41 or this section. A request for review under this section shall stay issuance
42 of the administrative income withholding order until further order of the
43 presiding officer.

1 (e) Within 45 days of the date the notice of intent to initiate income
2 withholding was served on the responsible parent, the presiding officer
3 shall provide the responsible parent an opportunity to present the
4 responsible parent's case, determine if an income withholding order may
5 be issued and notify the responsible parent and the secretary whether or
6 not withholding is to occur.

7 (f) In addition to any other circumstances warranting issuance of an
8 income withholding order under this section and notwithstanding any
9 claim made pursuant to subsection (g), if the presiding officer finds that a
10 notice of intent to initiate income withholding was served on the
11 responsible parent and that there were arrearages, as of the date the notice
12 was prepared, in an amount equal to or greater than the amount of support
13 payable for one month, the presiding officer shall authorize issuance of an
14 income withholding order. Subsequent payments to defray arrearages
15 shall not prevent issuance of an income withholding order under this
16 subsection unless there is no current support due and all arrearages are
17 satisfied.

18 (g) If an income withholding order was not entered at the time the
19 support order was entered because the tribunal found that there was good
20 cause not to order immediate income withholding or that the parties had
21 entered into an agreement for an alternative arrangement, the responsible
22 parent may request that income withholding be stayed pursuant to this
23 subsection.

24 If the responsible parent shows that the tribunal issuing the support
25 order found good cause not to require immediate income withholding and
26 that the basis for the finding of good cause still exists, the presiding officer
27 shall stay issuance of the income withholding order unless subsection (f)
28 applies.

29 If the responsible parent shows that the tribunal issuing the support
30 order did not require immediate income withholding based upon an
31 agreement of the interested parties for an alternative arrangement, the
32 presiding officer may stay issuance of the income withholding order unless
33 the presiding officer finds that: (1) Subsection (f) applies; (2) the
34 agreement was not in writing; (3) the agreement was not approved by all
35 interested parties, including any IV-D agency involved in the case at the
36 time of the agreement; (4) the terms of the agreement or alternative
37 arrangement are not being met; (5) the agreement or alternative
38 arrangement is not ~~in the best interests of~~ *the least detrimental alternative*
39 *for the child*; or (6) the agreement or alternative arrangement places an
40 unnecessary burden upon the custodial parent, the responsible parent, or a
41 public office.

42 (h) If the proposed administrative income withholding order specifies
43 a periodic amount to defray arrearages, the presiding officer may order a

1 reduction in the periodic amount to defray arrearages only if the total
2 arrearages owed are less than the periodic amount to defray arrearages.

3 Sec. 135. K.S.A. 2013 Supp. 59-2136 is hereby amended to read as
4 follows: 59-2136. (a) The provisions of this section shall apply where a
5 relinquishment or consent to an adoption has not been obtained from a
6 parent and K.S.A. 59-2124 and 59-2129, and amendments thereto, state
7 that the necessity of a parent's relinquishment or consent can be
8 determined under this section.

9 (b) Insofar as practicable, the provisions of this section applicable to
10 the father also shall apply to the mother and those applicable to the mother
11 also shall apply to the father.

12 (c) In stepparent adoptions under subsection (d), the court may
13 appoint an attorney to represent any father who is unknown or whose
14 whereabouts are unknown. In all other cases, the court shall appoint an
15 attorney to represent any father who is unknown or whose whereabouts are
16 unknown. If no person is identified as the father or a possible father, the
17 court shall order publication notice of the hearing in such manner as the
18 court deems appropriate.

19 (d) In a stepparent adoption, if a mother consents to the adoption of a
20 child who has a presumed father under subsection (a)(1), (2) or (3) of
21 K.S.A. 2013 Supp. 23-2208, and amendments thereto, or who has a father
22 as to whom the child is a legitimate child under prior law of this state or
23 under the law of another jurisdiction, the consent of such father must be
24 given to the adoption unless such father has failed or refused to assume the
25 duties of a parent for two consecutive years next preceding the filing of the
26 petition for adoption or is incapable of giving such consent. In determining
27 whether a father's consent is required under this subsection, the court may
28 disregard incidental visitations, contacts, communications or contributions.
29 In determining whether the father has failed or refused to assume the
30 duties of a parent for two consecutive years next preceding the filing of the
31 petition for adoption, there shall be a rebuttable presumption that if the
32 father, after having knowledge of the child's birth, has knowingly failed to
33 provide a substantial portion of the child support as required by judicial
34 decree, when financially able to do so, for a period of two years next
35 preceding the filing of the petition for adoption, then such father has failed
36 or refused to assume the duties of a parent. The court may consider the
37 ~~best interests of~~ *least detrimental alternative* for the child and the fitness
38 of the nonconsenting parent in determining whether a stepparent adoption
39 should be granted.

40 (e) Except as provided in subsection (d), if a mother desires to
41 relinquish or consents to the adoption of such mother's child, a petition
42 shall be filed in the district court to terminate the parental rights of the
43 father, unless the father's relationship to the child has been previously

1 terminated or determined not to exist by a court. The petition may be filed
2 by the mother, the petitioner for adoption, the person or agency having
3 custody of the child or the agency to which the child has been or is to be
4 relinquished. Where appropriate, the request to terminate parental rights
5 may be contained in a petition for adoption. If the request to terminate
6 parental rights is not filed in connection with an adoption proceeding,
7 venue shall be in the county in which the child, the mother or the
8 presumed or alleged father resides or is found. In an effort to identify the
9 father, the court shall determine by deposition, affidavit or hearing, the
10 following:

11 (1) Whether there is a presumed father under K.S.A. 2013 Supp. 23-
12 2208, and amendments thereto;

13 (2) whether there is a father whose relationship to the child has been
14 determined by a court;

15 (3) whether there is a father as to whom the child is a legitimate child
16 under prior law of this state or under the law of another jurisdiction;

17 (4) whether the mother was cohabitating with a man at the time of
18 conception or birth of the child;

19 (5) whether the mother has received support payments or promises of
20 support with respect to the child or in connection with such mother's
21 pregnancy; and

22 (6) whether any man has formally or informally acknowledged or
23 declared such man's possible paternity of the child.

24 If the father is identified to the satisfaction of the court, or if more than
25 one man is identified as a possible father, each shall be given notice of the
26 proceeding in accordance with subsection (f).

27 (f) Notice of the proceeding shall be given to every person identified
28 as the father or a possible father by personal service, certified mail return
29 receipt requested or in any other manner the court may direct. Proof of
30 notice shall be filed with the court before the petition or request is heard.

31 (g) If, after the inquiry, the court is unable to identify the father or any
32 possible father and no person has appeared claiming to be the father and
33 claiming custodial rights, the court shall enter an order terminating the
34 unknown father's parental rights with reference to the child without regard
35 to subsection (h). If any person identified as the father or possible father of
36 the child fails to appear or, if appearing, fails to claim custodial rights,
37 such person's parental rights with reference to the child shall be terminated
38 without regard to subsection (h).

39 (h) (1) When a father or alleged father appears and asserts parental
40 rights, the court shall determine parentage, if necessary pursuant to the
41 Kansas parentage act, K.S.A. 2013 Supp. 23-2201 et seq., and
42 amendments thereto. If a father desires but is financially unable to employ
43 an attorney, the court shall appoint an attorney for the father. Thereafter,

1 the court may order that parental rights be terminated, upon a finding by
2 clear and convincing evidence, of any of the following:

3 (A) The father abandoned or neglected the child after having
4 knowledge of the child's birth;

5 (B) the father is unfit as a parent or incapable of giving consent;

6 (C) the father has made no reasonable efforts to support or
7 communicate with the child after having knowledge of the child's birth;

8 (D) the father, after having knowledge of the pregnancy, failed
9 without reasonable cause to provide support for the mother during the six
10 months prior to the child's birth;

11 (E) the father abandoned the mother after having knowledge of the
12 pregnancy;

13 (F) the birth of the child was the result of rape of the mother; or

14 (G) the father has failed or refused to assume the duties of a parent
15 for two consecutive years next preceding the filing of the petition.

16 (2) In making a finding whether parental rights shall be terminated
17 under this subsection, the court may:

18 (A) Consider and weigh the ~~best interest of~~ *least detrimental*
19 *alternative* for the child; and

20 (B) disregard incidental visitations, contacts, communications or
21 contributions.

22 (3) In determining whether the father has failed or refused to assume
23 the duties of a parent for two consecutive years next preceding the filing of
24 the petition for adoption, there shall be a rebuttable presumption that if the
25 father, after having knowledge of the child's birth, has knowingly failed to
26 provide a substantial portion of the child support as required by judicial
27 decree, when financially able to do so, for a period of two years next
28 preceding the filing of the petition for adoption, then such father has failed
29 or refused to assume the duties of a parent.

30 (i) A termination of parental rights under this section shall not
31 terminate the right of the child to inherit from or through the parent. Upon
32 such termination, all the rights of birth parents to such child, including
33 their right to inherit from or through such child, shall cease.

34 Sec. 136. K.S.A. 2013 Supp. 72-53,106 is hereby amended to read as
35 follows: 72-53,106. (a) As used in this section:

36 (1) "School" means every school district and every nonpublic school
37 operating in this state.

38 (2) "School board" means the board of education of a school district
39 or the governing authority of a nonpublic school.

40 (3) "Proof of identity" means: (A) In the case of a child enrolling in
41 kindergarten or first grade, a certified copy of the birth certificate of the
42 child or, as an alternative, for a child who is in the custody of the secretary
43 ~~of social and rehabilitation services for children and families~~, a certified

1 copy of the court order placing the child in the custody of the secretary
2 and, in the case of a child enrolling in any of the grades two through 12, a
3 certified transcript or other similar pupil records or data; or (B) any
4 documentary evidence which a school board deems to be satisfactory
5 proof of identity.

6 (b) Whenever a child enrolls or is enrolled in a school for the first
7 time, the school board of the school in which the child is enrolling or
8 being enrolled shall require, in accordance with a policy adopted by the
9 school board, presentation of proof of identity of the child. If proof of
10 identity of the child is not presented to the school board within 30 days
11 after enrollment, the school board shall immediately give written notice
12 thereof to a law enforcement agency having jurisdiction within the home
13 county of the school. Upon receipt of the written notice, the law
14 enforcement agency shall promptly conduct an investigation to determine
15 the identity of the child. No person or persons claiming custody of the
16 child shall be informed of the investigation while it is being conducted.

17 (c) Schools and law enforcement agencies shall cooperate with each
18 other in the conducting of any investigation required by this section.
19 School personnel shall provide law enforcement agencies with access on
20 school premises to any child whose identity is being investigated. School
21 personnel shall be present at all times any law enforcement agency
22 personnel are on school premises for the purpose of conducting any such
23 investigation unless the school personnel and the law enforcement agency
24 personnel agree that their joint presence is not ~~in the best interests of the~~
25 *least detrimental alternative* for the child. School personnel who are
26 present during the conducting by a law enforcement agency of an
27 investigation on school premises to determine the identity of a child in
28 accordance with the requirements of this section are subject to the
29 confidentiality requirements of the revised Kansas code for care of
30 children.

31 (d) Upon receipt by a school of a notice from a law enforcement
32 agency that a child who is or has been enrolled in the school has been
33 reported as a missing child, the school shall make note of the same in a
34 conspicuous manner on the school records of the child and shall keep such
35 school records separate from the school records of all other children
36 enrolled in the school. Upon receipt by the school of a request for the
37 school records of the child, the school shall notify the law enforcement
38 agency of the request.

39 (e) Each school board may designate and authorize one or more of its
40 school personnel to act on behalf of the school board in complying with
41 the requirements of this section.

42 (f) Information gathered in the course of the investigation to establish
43 the identity of a child pursuant to this section shall be confidential and

1 shall be used only to establish the identity of the child or in support of any
2 criminal prosecution emanating from the investigation.

3 Sec. 137. K.S.A. 2013 Supp. 75-7023 is hereby amended to read as
4 follows: 75-7023. (a) The supreme court through administrative orders
5 shall provide for the establishment of a juvenile intake and assessment
6 system and for the establishment and operation of juvenile intake and
7 assessment programs in each judicial district. On and after July 1, 1997,
8 the secretary of ~~social and rehabilitation services~~ *for children and families*
9 may contract with the commissioner of juvenile justice to provide for the
10 juvenile intake and assessment system and programs for children in need
11 of care. Except as provided further, on and after July 1, 1997, the
12 commissioner of juvenile justice shall promulgate rules and regulations for
13 the juvenile intake and assessment system and programs concerning
14 juvenile offenders. If the commissioner contracts with the office of judicial
15 administration to administer the juvenile intake and assessment system and
16 programs concerning juvenile offenders, the supreme court administrative
17 orders shall be in force until such contract ends and the rules and
18 regulations concerning juvenile intake and assessment system and
19 programs concerning juvenile offenders have been adopted.

20 (b) No records, reports and information obtained as a part of the
21 juvenile intake and assessment process may be admitted into evidence in
22 any proceeding and may not be used in a child in need of care proceeding
23 except for diagnostic and referral purposes and by the court in considering
24 dispositional alternatives. However, if the records, reports or information
25 are in regard to abuse or neglect, which is required to be reported under
26 K.S.A. 2013 Supp. 38-2223, and amendments thereto, such records,
27 reports or information may then be used for any purpose in a child in need
28 of care proceeding pursuant to the revised Kansas code for care of
29 children.

30 (c) Upon a juvenile being taken into custody pursuant to K.S.A. 2013
31 Supp. 38-2330, and amendments thereto, a juvenile intake and assessment
32 worker shall complete the intake and assessment process as required by
33 supreme court administrative order or district court rule prior to July 1,
34 1997, or except as provided above rules and regulations established by the
35 commissioner of juvenile justice on and after July 1, 1997.

36 (d) Except as provided in subsection (g) and in addition to any other
37 information required by the supreme court administrative order, the
38 secretary, the commissioner or by the district court of such district, the
39 juvenile intake and assessment worker shall collect the following
40 information:

41 (1) A standardized risk assessment tool, such as the problem oriented
42 screening instrument for teens;

43 (2) criminal history, including indications of criminal gang

1 involvement;

2 (3) abuse history;

3 (4) substance abuse history;

4 (5) history of prior community services used or treatments provided;

5 (6) educational history;

6 (7) medical history; and

7 (8) family history.

8 (e) After completion of the intake and assessment process for such
9 child, the intake and assessment worker may:

10 (1) Release the child to the custody of the child's parent, other legal
11 guardian or another appropriate adult if the intake and assessment worker
12 believes that it would be ~~in the best interest of~~ *the least detrimental*
13 *alternative for* the child and it would not be harmful to the child to do so.

14 (2) Conditionally release the child to the child's parent, other legal
15 guardian or another appropriate adult if the intake and assessment worker
16 believes that if the conditions are met, it would be in the ~~child's best~~
17 ~~interest~~ *least detrimental alternative for the child* to release the child to
18 such child's parent, other legal guardian or another appropriate adult; and
19 the intake and assessment worker has reason to believe that it might be
20 harmful to the child to release the child to such child's parents, other legal
21 guardian or another appropriate adult without imposing the conditions. The
22 conditions may include, but not be limited to:

23 (A) Participation of the child in counseling;

24 (B) participation of members of the child's family in counseling;

25 (C) participation by the child, members of the child's family and other
26 relevant persons in mediation;

27 (D) provision of inpatient treatment for the child;

28 (E) referral of the child and the child's family to the secretary ~~of~~
29 ~~social and rehabilitation services~~ *for children and families* for services and
30 the agreement of the child and family to accept and participate in the
31 services offered;

32 (F) referral of the child and the child's family to available community
33 resources or services and the agreement of the child and family to accept
34 and participate in the services offered;

35 (G) requiring the child and members of the child's family to enter into
36 a behavioral contract which may provide for regular school attendance
37 among other requirements; or

38 (H) any special conditions necessary to protect the child from future
39 abuse or neglect.

40 (3) Deliver the child to a shelter facility or a licensed attendant care
41 center along with the law enforcement officer's written application. The
42 shelter facility or licensed attendant care facility shall then have custody as
43 if the child had been directly delivered to the facility by the law

1 enforcement officer pursuant to K.S.A. 2013 Supp. 38-2232, and
2 amendments thereto.

3 (4) Refer the child to the county or district attorney for appropriate
4 proceedings to be filed or refer the child and family to the secretary ~~of~~
5 ~~social and rehabilitation services~~ *for children and families* for
6 investigations in regard to the allegations.

7 (5) Make recommendations to the county or district attorney
8 concerning immediate intervention programs which may be beneficial to
9 the juvenile.

10 (f) The commissioner may adopt rules and regulations which allow
11 local juvenile intake and assessment programs to create a risk assessment
12 tool, as long as such tool meets the mandatory reporting requirements
13 established by the commissioner.

14 (g) Parents, guardians and juveniles may access the juvenile intake
15 and assessment programs on a voluntary basis. The parent or guardian
16 shall be responsible for the costs of any such program utilized.

17 Sec. 138. K.S.A. 38-101, 38-102, 38-103, 38-104, 38-108, 38-109,
18 38-110, 38-111, 38-112, 38-115, 38-116, 38-120, 38-122, 38-123, 38-123a,
19 38-123b, 38-134, 38-135, 38-136, 38-137, 38-138, 38-139, 38-141, 38-
20 306, 38-315, 38-319, 38-320, 38-321, 38-322, 38-323, 38-324, 38-325, 38-
21 326, 38-327, 38-328, 38-329, 38-335, 38-336, 38-337, 38-338, 38-339, 38-
22 340, 38-1201, 38-1202, 38-1203, 38-1204, 38-1205, 38-1206, 38-1701,
23 38-1702, 38-1703, 38-1704, 38-1705, 38-1706, 38-1707, 38-1708, 38-
24 1709, 38-1710, 38-1711, 38-1712, 38-1713, 38-1714, 38-1715, 38-1716,
25 38-1717, 38-1718, 38-1719, 38-1720, 38-1721, 38-1722, 38-1723, 38-
26 1724, 38-1725, 38-1726, 38-1901 and 39-7,149 and K.S.A. 2013 Supp.
27 23-2204, 23-2208, 23-2209, 23-2215, 23-2225, 23-3004, 23-3103, 23-
28 3201, 23-3202, 23-3203, 23-3205, 23-3206, 23-3207, 23-3210, 23-3211,
29 23-3212, 23-3213, 23-3217, 23-3221, 23-3222, 23-3301, 23-3302, 23-
30 3403, 23-3503, 23-3510, 38-123a, 38-140, 38-142, 38-143, 38-144, 38-
31 145, 38-146, 38-147, 38-148, 38-149, 38-1008, 38-1009, 38-1010, 38-
32 1011, 38-1518, 38-2201, 38-2202, 38-2203, 38-2204, 38-2205, 38-2206,
33 38-2207, 38-2208, 38-2209, 38-2210, 38-2211, 38-2212, 38-2213, 38-
34 2214, 38-2215, 38-2216, 38-2217, 38-2218, 38-2219, 38-2220, 38-2221,
35 38-2222, 38-2223, 38-2224, 38-2225, 38-2226, 38-2227, 38-2228, 38-
36 2229, 38-2230, 38-2231, 38-2232, 38-2233, 38-2234, 38-2235, 38-2236,
37 38-2237, 38-2238, 38-2239, 38-2240, 38-2241, 38-2242, 38-2243, 38-
38 2244, 38-2245, 38-2246, 38-2247, 38-2248, 38-2249, 38-2250, 38-2251,
39 38-2252, 38-2253, 38-2254, 38-2255, 38-2256, 38-2257, 38-2258, 38-
40 2259, 38-2260, 38-2261, 38-2262, 38-2263, 38-2264, 38-2265, 38-2266,
41 38-2267, 38-2268, 38-2269, 38-2270, 38-2271, 38-2272, 38-2273, 38-
42 2274, 38-2275, 38-2276, 38-2277, 38-2278, 38-2279, 38-2280, 38-2281,
43 38-2282, 38-2283, 38-2284, 38-2285, 38-2286, 38-2287, 38-2302, 39-

1 7,145, 59-2136, 72-53,106 and 75-7023.

2 Sec. 139. This act shall take effect and be in force from and after its
3 publication in the statute book.