

**HOUSE BILL No. 2700**

By Committee on Children and Seniors

2-11

1 AN ACT concerning children and minors; **adding certain placements to**  
2 **the definition of kinship care placement**; requiring the Kansas  
3 department for children and families to review certain items related to  
4 the child's needs and attachments before consenting to an adoption  
5 **when there are multiple prospective adoptive families**; requiring the  
6 court to make a finding that such review was conducted by the  
7 department before entering an order; amending K.S.A. **38-2202 and**  
8 **38-2270 and repealing the existing-section sections.**  
9

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

11 **Section 1. K.S.A. 38-2202 is hereby amended to read as follows:**  
12 **38-2202. As used in the revised Kansas code for care of children,**  
13 **unless the context otherwise indicates:**

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

17 (b) "Adult correction facility" means any public or private  
18 facility, secure or nonsecure, that is used for the lawful custody of  
19 accused or convicted adult criminal offenders.

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

23 (d) "Child in need of care" means a person less than 18 years of  
24 age at the time of filing of the petition or issuance of an ex parte  
25 protective custody order pursuant to K.S.A. 38-2242, and amendments  
26 thereto, who:

27 (1) Is without adequate parental care, control or subsistence and  
28 the condition is not due solely to the lack of financial means of the  
29 child's parents or other custodian;

30 (2) is without the care or control necessary for the child's  
31 physical, mental or emotional health;

32 (3) has been physically, mentally or emotionally abused or  
33 neglected or sexually abused;

34 (4) has been placed for care or adoption in violation of law;

35 (5) has been abandoned or does not have a known living parent;

36 (6) is not attending school as required by K.S.A. 72-3421 or 72-

1 **3120, and amendments thereto;**

2 (7) except in the case of a violation of K.S.A. 41-727, K.S.A. 74-  
3 8810(j), K.S.A. 79-3321(m) or (n), or K.S.A. 2021 Supp. 21-6301(a)  
4 (14), and amendments thereto, or, except as provided in paragraph  
5 (12), does an act which, when committed by a person under 18 years  
6 of age, is prohibited by state law, city ordinance or county resolution,  
7 but which is not prohibited when done by an adult;

8 (8) while less than 10 years of age, commits any act that if done  
9 by an adult would constitute the commission of a felony or  
10 misdemeanor as defined by K.S.A. 2021 Supp. 21-5102, and  
11 amendments thereto;

12 (9) is willfully and voluntarily absent from the child's home  
13 without the consent of the child's parent or other custodian;

14 (10) is willfully and voluntarily absent at least a second time from  
15 a court ordered or designated placement, or a placement pursuant to  
16 court order, if the absence is without the consent of the person with  
17 whom the child is placed or, if the child is placed in a facility, without  
18 the consent of the person in charge of such facility or such person's  
19 designee;

20 (11) has been residing in the same residence with a sibling or  
21 another person under 18 years of age, who has been physically,  
22 mentally or emotionally abused or neglected, or sexually abused;

23 (12) while less than 10 years of age commits the offense defined in  
24 K.S.A. 2021 Supp. 21-6301(a)(14), and amendments thereto;

25 (13) has had a permanent custodian appointed and the  
26 permanent custodian is no longer able or willing to serve; or

27 (14) has been subjected to an act that would constitute human  
28 trafficking or aggravated human trafficking, as defined by K.S.A.  
29 2021 Supp. 21-5426, and amendments thereto, or commercial sexual  
30 exploitation of a child, as defined by K.S.A. 2021 Supp. 21-6422, and  
31 amendments thereto, or has committed an act which, if committed by  
32 an adult, would constitute selling sexual relations, as defined by K.S.A.  
33 2021 Supp. 21-6419, and amendments thereto.

34 (e) "Citizen review board" is a group of community volunteers  
35 appointed by the court and whose duties are prescribed by K.S.A. 38-  
36 2207 and 38-2208, and amendments thereto.

37 (f) "Civil custody case" includes any case filed under chapter 23  
38 of the Kansas Statutes Annotated, and amendments thereto, the  
39 Kansas family law code, article 11 of chapter 38 of the Kansas Statutes  
40 Annotated, and amendments thereto, determination of parentage,  
41 article 21 of chapter 59 of the Kansas Statutes Annotated, and  
42 amendments thereto, adoption and relinquishment act, or article 30 of  
43 chapter 59 of the Kansas Statutes Annotated, and amendments

1 thereto, guardians and conservators.

2 (g) "Court-appointed special advocate" means a responsible  
3 adult other than an attorney guardian ad litem who is appointed by  
4 the court to represent the best interests of a child, as provided in  
5 K.S.A. 38-2206, and amendments thereto, in a proceeding pursuant to  
6 this code.

7 (h) "Custody" whether temporary, protective or legal, means the  
8 status created by court order or statute that vests in a custodian,  
9 whether an individual or an agency, the right to physical possession of  
10 the child and the right to determine placement of the child, subject to  
11 restrictions placed by the court.

12 (i) "Extended out of home placement" means a child has been in  
13 the custody of the secretary and placed with neither parent for 15 of  
14 the most recent 22 months beginning 60 days after the date at which a  
15 child in the custody of the secretary was removed from the child's  
16 home.

17 (j) "Educational institution" means all schools at the elementary  
18 and secondary levels.

19 (k) "Educator" means any administrator, teacher or other  
20 professional or paraprofessional employee of an educational  
21 institution who has exposure to a pupil specified in K.S.A. 72-6143(a),  
22 and amendments thereto.

23 (l) "Harm" means physical or psychological injury or damage.

24 (m) "Interested party" means the grandparent of the child, a  
25 person with whom the child has been living for a significant period of  
26 time when the child in need of care petition is filed, and any person  
27 made an interested party by the court pursuant to K.S.A. 38-2241, and  
28 amendments thereto, or Indian tribe seeking to intervene that is not a  
29 party.

30 (n) "Jail" means:

31 (1) An adult jail or lockup; or

32 (2) a facility in the same building or on the same grounds as an  
33 adult jail or lockup, unless the facility meets all applicable standards  
34 and licensure requirements under law and there is: (A) Total  
35 separation of the juvenile and adult facility spatial areas such that  
36 there could be no haphazard or accidental contact between juvenile  
37 and adult residents in the respective facilities; (B) total separation in  
38 all juvenile and adult program activities within the facilities, including  
39 recreation, education, counseling, health care, dining, sleeping and  
40 general living activities; and (C) separate juvenile and adult staff,  
41 including management, security staff and direct care staff such as  
42 recreational, educational and counseling.

43 (o) "Juvenile detention facility" means any secure public or

1 private facility used for the lawful custody of accused or adjudicated  
2 juvenile offenders that must not be a jail.

3 (p) "Juvenile intake and assessment worker" means a responsible  
4 adult authorized to perform intake and assessment services as part of  
5 the intake and assessment system established pursuant to K.S.A. 75-  
6 7023, and amendments thereto.

7 (q) "Kinship care placement" means the placement of a child in  
8 the home of an adult with whom the child or the child's parent already  
9 has close emotional ties, *including a foster placement with whom the*  
10 *child lived for more than six months.*

11 (r) "Law enforcement officer" means any person who by virtue  
12 of office or public employment is vested by law with a duty to  
13 maintain public order or to make arrests for crimes, whether that  
14 duty extends to all crimes or is limited to specific crimes.

15 (s) "Multidisciplinary team" means a group of persons,  
16 appointed by the court under K.S.A. 38-2228, and amendments  
17 thereto, that has knowledge of the circumstances of a child in need of  
18 care.

19 (t) "Neglect" means acts or omissions by a parent, guardian or  
20 person responsible for the care of a child resulting in harm to a child,  
21 or presenting a likelihood of harm, and the acts or omissions are not  
22 due solely to the lack of financial means of the child's parents or other  
23 custodian. Neglect may include, but shall not be limited to:

24 (1) Failure to provide the child with food, clothing or shelter  
25 necessary to sustain the life or health of the child;

26 (2) failure to provide adequate supervision of a child or to remove  
27 a child from a situation that requires judgment or actions beyond the  
28 child's level of maturity, physical condition or mental abilities and that  
29 results in bodily injury or a likelihood of harm to the child; or

30 (3) failure to use resources available to treat a diagnosed medical  
31 condition if such treatment will make a child substantially more  
32 comfortable, reduce pain and suffering, or correct or substantially  
33 diminish a crippling condition from worsening. A parent legitimately  
34 practicing religious beliefs who does not provide specified medical  
35 treatment for a child because of religious beliefs shall, not for that  
36 reason, be considered a negligent parent; however, this exception shall  
37 not preclude a court from entering an order pursuant to K.S.A. 38-  
38 2217(a)(2), and amendments thereto.

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

42 (v) "Party" means the state, the petitioner, the child, any parent  
43 of the child and an Indian child's tribe intervening pursuant to the

1 **Indian child welfare act.**

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

6 (x) "Permanent custodian" means a judicially approved  
7 permanent guardian of a child pursuant to K.S.A. 38-2272, and  
8 amendments thereto.

9 (y) "Physical, mental or emotional abuse" means the infliction of  
10 physical, mental or emotional harm or the causing of a deterioration  
11 of a child and may include, but shall not be limited to, maltreatment  
12 or exploiting a child to the extent that the child's health or emotional  
13 well-being is endangered.

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

16 (aa) "Qualified residential treatment program" means a program  
17 designated by the secretary for children and families as a qualified  
18 residential treatment program pursuant to federal law.

19 (bb) "Reasonable and prudent parenting standard" means the  
20 standard characterized by careful and sensible parental decisions that  
21 maintain the health, safety and best interests of a child while at the  
22 same time encouraging the emotional and developmental growth of  
23 the child, that a caregiver shall use when determining whether to  
24 allow a child in foster care under the responsibility of the state to  
25 participate in extracurricular, enrichment, cultural and social  
26 activities.

27 (cc) "Relative" means a person related by blood, marriage or  
28 adoption.

29 (dd) "Runaway" means a child who is willfully and voluntarily  
30 absent from the child's home without the consent of the child's parent  
31 or other custodian.

32 (ee) "Secretary" means the secretary for children and families or  
33 the secretary's designee.

34 (ff) "Secure facility" means a facility, other than a staff secure  
35 facility or juvenile detention facility, that is operated or structured so  
36 as to ensure that all entrances and exits from the facility are under the  
37 exclusive control of the staff of the facility, whether or not the person  
38 being detained has freedom of movement within the perimeters of the  
39 facility, or that relies on locked rooms and buildings, fences or  
40 physical restraint in order to control behavior of its residents. No  
41 secure facility shall be in a city or county jail.

42 (gg) "Sexual abuse" means any contact or interaction with a child  
43 in which the child is being used for the sexual stimulation of the

1 perpetrator, the child or another person. Sexual abuse shall include,  
2 but is not limited to, allowing, permitting or encouraging a child to:

3 (1) Be photographed, filmed or depicted in pornographic  
4 material; or

5 (2) be subjected to aggravated human trafficking, as defined in  
6 K.S.A. 2021 Supp. 21-5426(b), and amendments thereto, if committed  
7 in whole or in part for the purpose of the sexual gratification of the  
8 offender or another, or be subjected to an act that would constitute  
9 conduct proscribed by article 55 of chapter 21 of the Kansas Statutes  
10 Annotated or K.S.A. 2021 Supp. 21-6419 or 21-6422, and amendments  
11 thereto.

12 (hh) "Shelter facility" means any public or private facility or  
13 home, other than a juvenile detention facility or staff secure facility,  
14 that may be used in accordance with this code for the purpose of  
15 providing either temporary placement for children in need of care  
16 prior to the issuance of a dispositional order or longer term care under  
17 a dispositional order.

18 (ii) "Staff secure facility" means a facility described in K.S.A. 65-  
19 535, and amendments thereto: (1) That does not include construction  
20 features designed to physically restrict the movements and activities of  
21 juvenile residents who are placed therein; (2) that may establish  
22 reasonable rules restricting entrance to and egress from the facility;  
23 and (3) in which the movements and activities of individual juvenile  
24 residents may, for treatment purposes, be restricted or subject to  
25 control through the use of intensive staff supervision. No staff secure  
26 facility shall be in a city or county jail.

27 (jj) "Transition plan" means, when used in relation to a youth in  
28 the custody of the secretary, an individualized strategy for the  
29 provision of medical, mental health, education, employment and  
30 housing supports as needed for the adult and, if applicable, for any  
31 minor child of the adult, to live independently and specifically  
32 provides for the supports and any services for which an adult with a  
33 disability is eligible including, but not limited to, funding for home  
34 and community based services waivers.

35 (kk) "Youth residential facility" means any home, foster home or  
36 structure that provides 24-hour-a-day care for children and that is  
37 licensed pursuant to article 5 of chapter 65 of the Kansas Statutes  
38 Annotated, and amendments thereto.

39 ~~Section 1.~~ Sec. 2. K.S.A. 38-2270 is hereby amended to read as  
40 follows: 38-2270. (a) When parental rights have been terminated and it  
41 appears that adoption is a viable alternative, the court shall enter one of the  
42 following orders:

43 (1) An order granting custody of the child, for adoption proceedings,

1 to the secretary or a corporation organized under the laws of the state of  
2 Kansas authorized to care for and surrender children for adoption as  
3 provided in K.S.A. 38-112 et seq., and amendments thereto. The person,  
4 secretary or corporation shall have authority to place the child in a family  
5 home, and give consent for the legal adoption of the child which shall be  
6 the only consent required to authorize the entry of an order or decree of  
7 adoption.

8 (2) An order granting custody of the child to proposed adoptive  
9 parents and consenting to the adoption of the child by the proposed  
10 adoptive parents.

11 ~~(b) (1) Prior to making an order under subsection (a)(1)~~ **When there**  
12 **is more than one prospective adoptive family**, the court shall make a  
13 finding that the person, secretary or corporation has conducted an  
14 individualized assessment of the child's needs and attachments as required  
15 by subsection (c).

16 (2) In making an order under subsection (a), the court shall give  
17 preference, to the extent that the court finds it is in the best interests of the  
18 child, first to granting such custody for adoption to a relative of the child  
19 and second to granting such custody to a person with whom the child has  
20 close emotional ties.

21 ~~(c) Discharge upon adoption.—Prior to giving consent for a legal~~  
22 ~~adoption of a child under subsection (a)(1),~~ **when there is more than one**  
23 **prospective adoptive family**, the person, secretary or corporation shall  
24 conduct an individualized assessment of such child's needs and  
25 attachments and provide the court with a report of such assessment. Such  
26 assessment shall include:

27 (1) ~~The child's current relationships with caregivers, relatives,–~~  
28 ~~siblings and others;~~

29 (2) ~~whether a family can best meet the child's medical, physical,~~  
30 ~~emotional, cultural and other specific needs; and~~

31 (3) ~~the child's need to maintain and strengthen current healthy~~  
32 ~~attachments.~~

33 (d) When an adoption decree has been filed with the court in the child  
34 in need of care case, the secretary's custody shall cease, the court's  
35 jurisdiction over the child shall cease and the court shall enter an order to  
36 that effect.

37 ~~Sec. 2-~~ **3.** K.S.A. **38-2202 and 38-2270** ~~is~~ **are** hereby repealed.

38 ~~Sec. 3-~~ **4.** This act shall take effect and be in force from and after its  
39 publication in the statute book.