

1 AN ACT concerning children; relating to permanency; priority of certain orders; amending
2 K.S.A. 38-1116 and 60-3103 and K.S.A. 2008 Supp. 38-1121, 38-2201, 38-2202, 38-
3 2203, 38-2208, 38-2212, 38-2242, 38-2243, 38-2251, 38-2255, 38-2258, 38-2264, 38-
4 2272, 38-2273, 38-2279, 38-2304, 38-2305, 38-2361, and 60-1610 and repealing the
5 existing sections.

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

7
8 **New Section 1.** Any custody or parenting time order, or order relating to the best
9 interests of a child, issued pursuant to the revised Kansas code for care of children or the
10 revised Kansas juvenile justice code, shall take precedence over any order under article
11 21 of chapter 59 of the Kansas Statutes Annotated, and amendments thereto (adoption
12 and relinquishment act), or article 30 of chapter 59 of the Kansas Statutes Annotated,
13 and amendments thereto (guardians and conservators), until jurisdiction under the
14 revised Kansas code for care of children or the revised Kansas juvenile justice code is
15 terminated.

16 **Sec. 2.** K.S.A. 38-1116 is hereby amended to read as follows: 38-1116. (a) The district
17 court has jurisdiction of an action brought under the Kansas parentage act. The action
18 may be joined with an action for divorce, annulment, separate maintenance, support or
19 adoption.

20 (b) If any determination is sought in any action under the Kansas parentage act for
21 custody, residency or parenting time, the initial pleading seeking that determination shall
22 include that information required by K.S.A. 38-1356, and amendments thereto;

23 (c) The action may be brought in the county in which the child, the mother or the
24 presumed or alleged father resides or is found. If a parent or an alleged or presumed
25 parent is deceased, an action may be brought in the county in which proceedings for
26 probate of the estate of the parent or alleged or presumed parent have been or could be
27 commenced.

28 ***(d) Any custody, residency or parenting time order issued pursuant to the revised***
29 ***Kansas code for care of children or the revised Kansas juvenile justice code, shall***
30 ***take precedence over any order under article 11 of chapter 38 of the Kansas***
31 ***Statutes Annotated, and amendments thereto (determination of parentage), until***
32 ***jurisdiction under the revised Kansas code for care of children or the revised***
33 ***Kansas juvenile justice code is terminated.***

34 ***(e) If a court of competent jurisdiction within this state has entered an order***
35 ***pursuant to the revised Kansas code for care of children regarding custody of a***
36 ***child or children who are involved in a proceeding filed pursuant to this section,***
37 ***and such court has determined pursuant to subsection (i)(2) of K.S.A. 38-2264, and***
38 ***amendments thereto, that the orders in that case shall become the custody orders***
39 ***in the parentage case, such court shall file a certified copy of the orders with the***
40 ***civil case number in the caption and then close the case under the revised Kansas***
41 ***code for care of children. Such orders shall be binding on the parties, unless***
42 ***modified based on a material change in circumstances, even if such courts have***
43 ***different venues.***

44 **Sec. 3.** K.S.A. 2008 Supp. 38-1121 is hereby amended to read as follows: 38-1121. (a)
45 The judgment or order of the court determining the existence or nonexistence of the
46 parent and child relationship is determinative for all purposes, but if any person
47 necessary to determine the existence of a father and child relationship for all purposes
48 has not been joined as a party, a determination of the paternity of the child shall have
49 only the force and effect of a finding of fact necessary to determine a duty of support.

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

53 (c) Upon adjudging that a party is the parent of a minor child, the court shall make
54 provision for support and education of the child including the necessary medical
55 expenses incident to the birth of the child. The court may order the support and education
56 expenses to be paid by either or both parents for the minor child. When the child reaches

1 18 years of age, the support shall terminate unless: (1) The parent or parents agree, by
 2 written agreement approved by the court, to pay support beyond that time; (2) the child
 3 reaches 18 years of age before completing the child's high school education in which
 4 case the support shall not automatically terminate, unless otherwise ordered by the court,
 5 until June 30 of the school year during which the child became 18 years of age if the child
 6 is still attending high school; or (3) the child is still a bona fide high school student after
 7 June 30 of the school year during which the child became 18 years of age, in which case
 8 the court, on motion, may order support to continue through the school year during which
 9 the child becomes 19 years of age so long as the child is a bona fide high school student
 10 and the parents jointly participated or knowingly acquiesced in the decision which
 11 delayed the child's completion of high school. The court, in extending support pursuant to
 12 subsection (c)(3), may impose such conditions as are appropriate and shall set the child
 13 support utilizing the guideline table category for 16-year through 18-year old children.
 14 Provision for payment of support and educational expenses of a child after reaching 18
 15 years of age if still attending high school shall apply to any child subject to the jurisdiction
 16 of the court, including those whose support was ordered prior to July 1, 1992. If an
 17 agreement approved by the court prior to July 1, 1988, provides for termination of support
 18 before the date provided by subsection (c)(2), the court may review and modify such
 19 agreement, and any order based on such agreement, to extend the date for termination
 20 of support to the date provided by subsection (c)(2). If an agreement approved by the
 21 court prior to July 1, 1992, provides for termination of support before the date provided by
 22 subsection (c)(3), the court may review and modify such agreement, and any order based
 23 on such agreement, to extend the date for termination of support to the date provided by
 24 subsection (c)(3). For purposes of this section, "bona fide high school student" means a
 25 student who is enrolled in full accordance with the policy of the accredited high school in
 26 which the student is pursuing a high school diploma or a graduate equivalency diploma
 27 (GED). The judgment may require the party to provide a bond with sureties to secure
 28 payment. The court may at any time during the minority of the child modify or change the
 29 order of support, including any order issued in a title IV-D case, within three years of the
 30 date of the original order or a modification order, as required by the best interest of the
 31 child. If more than three years has passed since the date of the original order or
 32 modification order, a requirement that such order is in the best interest of the child need
 33 not be shown. The court may make a modification of support retroactive to a date at least
 34 one month after the date that the motion to modify was filed with the court. Any increase
 35 in support ordered effective prior to the date the court's judgment is filed shall not
 36 become a lien on real property pursuant to K.S.A. 60-2202, and amendments thereto.
 37 (d) If both parents are parties to the action, the court shall enter such orders regarding
 38 custody, residency and parenting time as the court considers to be in the best interest of
 39 the child. If the parties have an agreed parenting plan it shall be presumed the agreed
 40 parenting plan is in the best interest of the child. This presumption may be overcome and
 41 the court may make a different order if the court makes specific findings of fact stating
 42 why the agreed parenting plan is not in the best interest of the child. If the parties are not
 43 in agreement on a parenting plan, each party shall submit a proposed parenting plan to
 44 the court for consideration at such time before the final hearing as may be directed by the
 45 court.

46 ***(e) If during the proceedings the court determines that there is probable cause to***
 47 ***believe that the child is a child in need of care, as defined by subsections (d)(1),***
 48 ***(d)(2), (d)(3) or (d)(11) of K.S.A. 2008 Supp. 38-2202, and amendments thereto, or***
 49 ***that neither parent is fit to have residency, the court may award temporary***
 50 ***residency of the child to a grandparent, aunt, uncle or adult sibling, or another***
 51 ***person or agency if the court finds by written order that: (1)(A) The child is likely to***
 52 ***sustain harm if not immediately removed from the home; (B) allowing the child to***
 53 ***remain in home is contrary to the welfare of the child; or (C) immediate placement***
 54 ***of the child is in the best interest of the child; and (2) reasonable efforts have been***
 55 ***made to maintain the family unit and prevent the unnecessary removal of the child***
 56 ***from the child's home or that an emergency exists which threatens the safety of***

1 ***the child. In making such a residency order, the court shall give preference, to the***
2 ***extent that the court finds it is in the best interests of the child, first to awarding***
3 ***such residency to a relative of the child by blood, marriage or adoption and second***
4 ***to awarding such residency to another person with whom the child has close***
5 ***emotional ties. The court may make temporary orders for care, support, education***
6 ***and visitation that it considers appropriate. Temporary residency orders are to be***
7 ***entered in lieu of temporary orders provided for in K.S.A. 2008 Supp. 38-2243 and***
8 ***38-2244, and amendments thereto, and shall remain in effect until there is a final***
9 ***determination under the revised Kansas code for care of children. An award of***
10 ***temporary residency under this paragraph shall not terminate parental rights nor***
11 ***give the court the authority to consent to the adoption of the child. When the court***
12 ***enters orders awarding temporary residency of the child to an agency or a person***
13 ***other than the parent, the court shall refer a transcript of the proceedings to the***
14 ***county or district attorney. The county or district attorney shall file a petition as***
15 ***provided in K.S.A. 2008 Supp. 38-2234, and amendments thereto, and may request***
16 ***termination of parental rights pursuant to K.S.A. 2008 Supp. 38- 2266, and***
17 ***amendments thereto. The costs of the proceedings shall be paid from the general***
18 ***fund of the county. If a final determination is made that the child is not a child in***
19 ***need of care, the county or district attorney shall notify the court in writing and the***
20 ***court, after a hearing, shall enter appropriate custody orders pursuant to this***
21 ***section. If the same judge presides over both proceedings, the notice is not***
22 ***required. Any custody, residency or parenting time order pursuant to the revised***
23 ***Kansas code for care of children shall take precedence over any custody,***
24 ***residency or parenting time order under this section.***

25 ~~(e)~~ ***(f)*** In entering an original order for support of a child under this section, the court may
26 award an additional judgment to reimburse the expenses of support and education of the
27 child from the date of birth to the date the order is entered. If the determination of
28 paternity is based upon a presumption arising under K.S.A. 38-1114 and amendments
29 thereto, the court shall award an additional judgment to reimburse all or part of the
30 expenses of support and education of the child from at least the date the presumption
31 first arose to the date the order is entered, except that no additional judgment need be
32 awarded for amounts accrued under a previous order for the child's support.

33 ~~(f)~~ ***(g)*** In determining the amount to be ordered in payment and duration of such
34 payments, a court enforcing the obligation of support shall consider all relevant facts
35 including, but not limited to, the following:

- 36 (1) The needs of the child.
- 37 (2) The standards of living and circumstances of the parents.
- 38 (3) The relative financial means of the parents.
- 39 (4) The earning ability of the parents.
- 40 (5) The need and capacity of the child for education.
- 41 (6) The age of the child.
- 42 (7) The financial resources and the earning ability of the child.
- 43 (8) The responsibility of the parents for the support of others.
- 44 (9) The value of services contributed by both parents.

45 ~~(g)~~ ***(h)*** The provisions of K.S.A. 23-4,107, and amendments thereto, shall apply to all
46 orders of support issued under this section.

47 ~~(h)~~ ***(i)*** An order granting parenting time pursuant to this section may be enforced in
48 accordance with K.S.A. 23-701, and amendments thereto, or under the uniform child
49 custody jurisdiction and enforcement act.

50 **Sec. 4.** K.S.A. 2008 Supp. 38-2201 is hereby amended to read as follows: 38-2201.
51 K.S.A. 2008 Supp. 38-2201 through 38-2283, and amendments thereto, shall be known
52 as and may be cited as the revised Kansas code for care of children.

53 (a) Proceedings pursuant to this code shall be civil in nature and all proceedings, orders,
54 judgments and decrees shall be deemed to be pursuant to the parental power of the
55 state. ***Any custody, residency or parenting time orders pursuant to this code shall***
56 ***take precedence over any custody, residency or parenting time order under article***

1 **11 of chapter 38 of the Kansas Statutes Annotated, and amendments thereto**
2 **(determination of parentage), article 21 of chapter 59 of the Kansas Statutes**
3 **Annotated, and amendments thereto (adoption and relinquishment act), article 30**
4 **of chapter 59 of the Kansas Statutes Annotated, and amendments thereto**
5 **(guardians and conservators), article 16 of chapter 60 of the Kansas Statutes**
6 **Annotated, and amendments thereto (divorce), article 31 of chapter 60 of the**
7 **Kansas Statutes Annotated, and amendments thereto (protection from abuse act),**
8 **and article 31a of chapter 60 of the Kansas Statutes Annotated, and amendments**
9 **thereto (protection from stalking act), until jurisdiction under this code is**
10 **terminated.**

11 (b) The code shall be liberally construed to carry out the policies of the state which are to:

12 (1) Consider the safety and welfare of a child to be paramount in all proceedings under
13 the code;

14 (2) provide that each child who comes within the provisions of the code shall receive the
15 care, custody, guidance control and discipline that will best serve the child's welfare and
16 the interests of the state, preferably in the child's home and recognizing that the child's
17 relationship with such child's family is important to the child's well being;

18 (3) make the ongoing physical, mental and emotional needs of the child decisive
19 considerations in proceedings under this code;

20 (4) acknowledge that the time perception of a child differs from that of an adult and to
21 dispose of all proceedings under this code without unnecessary delay;

22 (5) encourage the reporting of suspected child abuse and neglect;

23 (6) investigate reports of suspected child abuse and neglect thoroughly and promptly;

24 (7) provide for the protection of children who have been subject to physical, mental or
25 emotional abuse or neglect or sexual abuse;

26 (8) provide preventative and rehabilitative services, when appropriate, to abused and
27 neglected children and their families so, if possible, the families can remain together
28 without further threat to the children;

29 (9) provide stability in the life of a child who must be removed from the home of a parent;
30 and

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

33 (c) Nothing in this code shall be construed to permit discrimination on the basis of
34 disability.

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

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

42 **Sec. 5.** K.S.A. 2008 Supp. 38-2202 is hereby amended to read as follows: 38-2202. As
43 used in the revised Kansas code for care of children, unless the context otherwise
44 indicates:

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

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

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

51 (d) "Child in need of care" means a person less than 18 years of age at the time of filing
52 of the petition or issuance of an ex parte protective custody order pursuant to K.S.A.

53 2008 Supp. 38-2242, and amendments thereto, who:

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

- 1 (2) is without the care or control necessary for the child's physical, mental or emotional
2 health;
- 3 (3) has been physically, mentally or emotionally abused or neglected or sexually abused;
- 4 (4) has been placed for care or adoption in violation of law;
- 5 (5) has been abandoned or does not have a known living parent;
- 6 (6) is not attending school as required by K.S.A. 72-977 or 72-1111, and amendments
7 thereto;
- 8 (7) except in the case of a violation of K.S.A. 21-4204a, 41-727, subsection (j) of K.S.A.
9 74-8810 or subsection (m) or (n) of K.S.A. 79-3321, and amendments thereto, or, except
10 as provided in paragraph (12), does an act which, when committed by a person under 18
11 years of age, is prohibited by state law, city ordinance or county resolution but which is
12 not prohibited when done by an adult;
- 13 (8) while less than 10 years of age, commits any act which if done by an adult would
14 constitute the commission of a felony or misdemeanor as defined by K.S.A. 21-3105, and
15 amendments thereto;
- 16 (9) is willfully and voluntarily absent from the child's home without the consent of the
17 child's parent or other custodian;
- 18 (10) is willfully and voluntarily absent at least a second time from a court ordered or
19 designated placement, or a placement pursuant to court order, if the absence is without
20 the consent of the person with whom the child is placed or, if the child is placed in a
21 facility, without the consent of the person in charge of such facility or such person's
22 designee;
- 23 (11) has been residing in the same residence with a sibling or another person under 18
24 years of age, who has been physically, mentally or emotionally abused or neglected, or
25 sexually abused;
- 26 (12) while less than 10 years of age commits the offense defined in K.S.A. 21-4204a, and
27 amendments thereto; or
- 28 (13) has had a permanent custodian appointed and the permanent custodian is no longer
29 able or willing to serve.
- 30 (e) "Citizen review board" is a group of community volunteers appointed by the court and
31 whose duties are prescribed by K.S.A. 2008 Supp. 38-2207 and 38-2208, and
32 amendments thereto.
- 33 **(f) "Civil custody case" includes any case filed under article 11 of chapter 38 of the**
34 **Kansas Statutes Annotated, and amendments thereto (determination of parentage),**
35 **article 21 of chapter 59 of the Kansas Statutes Annotated, and amendments thereto**
36 **(adoption and relinquishment act), article 30 of chapter 59 of the Kansas Statutes**
37 **Annotated, and amendments thereto (guardians and conservators), or article 16 of**
38 **chapter 60 of the Kansas Statutes Annotated, and amendments thereto (divorce).**
- 39 ~~(g)~~ (g) "Court-appointed special advocate" means a responsible adult other than an
40 attorney guardian ad litem who is appointed by the court to represent the best interests of
41 a child, as provided in K.S.A. 2008 Supp. 38-2206, and amendments thereto, in a
42 proceeding pursuant to this code.
- 43 ~~(g)~~ (h) "Custody" whether temporary, protective or legal, means the status created by
44 court order or statute which vests in a custodian, whether an individual or an agency, the
45 right to physical possession of the child and the right to determine placement of the child,
46 subject to restrictions placed by the court.
- 47 ~~(h)~~ (i) "Extended out of home placement" means a child has been in the custody of the
48 secretary and placed with neither parent for 15 of the most recent 22 months beginning
49 60 days after the date at which a child in the custody of the secretary was removed from
50 the home.
- 51 ~~(i)~~ (j) "Educational institution" means all schools at the elementary and secondary levels.
- 52 ~~(j)~~ (k) "Educator" means any administrator, teacher or other professional or
53 paraprofessional employee of an educational institution who has exposure to a pupil
54 specified in subsection (a) of K.S.A. 72-89b03, and amendments thereto.
- 55 ~~(k)~~ (l) "Harm" means physical or psychological injury or damage.

1 ~~(h)~~ **(m)** “Interested party” means the grandparent of the child, a person with whom the
2 child has been living for a significant period of time when the child in need of care petition
3 is filed, and any person made an interested party by the court pursuant to K.S.A. 2008
4 Supp. 38-2241, and amendments thereto or Indian tribe seeking to intervene that is not a
5 party.

6 ~~(m)~~ **(n)** “Jail” means:

7 (1) An adult jail or lockup; or

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

17 ~~(n)~~ **(o)** “Juvenile detention facility” means any secure public or private facility used for the
18 lawful custody of accused or adjudicated juvenile offenders which must not be a jail.

19 ~~(o)~~ **(p)** “Juvenile intake and assessment worker” means a responsible adult authorized to
20 perform intake and assessment services as part of the intake and assessment system
21 established pursuant to K.S.A. 75-7023, and amendments thereto.

22 ~~(p)~~ **(q)** “Kinship care” means the placement of a child in the home of the child’s relative
23 or in the home of another adult with whom the child or the child’s parent already has a
24 close emotional attachment.

25 ~~(q)~~ **(r)** “Law enforcement officer” means any person who by virtue of office or public
26 employment is vested by law with a duty to maintain public order or to make arrests for
27 crimes, whether that duty extends to all crimes or is limited to specific crimes.

28 ~~(r)~~ **(s)** “Multidisciplinary team” means a group of persons, appointed by the court under
29 K.S.A. 2008 Supp. 38-2228, and amendments thereto, which has knowledge of the
30 circumstances of a child in need of care.

31 ~~(s)~~ **(t)** “Neglect” means acts or omissions by a parent, guardian or person responsible for
32 the care of a child resulting in harm to a child, or presenting a likelihood of harm, and the
33 acts or omissions are not due solely to the lack of financial means of the child’s parents
34 or other custodian. Neglect may include, but shall not be limited to:

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

37 (2) failure to provide adequate supervision of a child or to remove a child from a situation
38 which requires judgment or actions beyond the child’s level of maturity, physical condition
39 or mental abilities and that results in bodily injury or a likelihood of harm to the child; or
40 (3) failure to use resources available to treat a diagnosed medical condition if such
41 treatment will make a child substantially more comfortable, reduce pain and suffering, or
42 correct or substantially diminish a crippling condition from worsening. A parent
43 legitimately practicing religious beliefs who does not provide specified medical treatment
44 for a child because of religious beliefs shall not for that reason be considered a negligent
45 parent; however, this exception shall not preclude a court from entering an order
46 pursuant to subsection (a)(2) of K.S.A. 2008 Supp. 38-2217, and amendments thereto.

47 ~~(t)~~ **(u)** “Parent” when used in relation to a child or children, includes a guardian and every
48 person who is by law liable to maintain, care for or support the child.

49 ~~(u)~~ **(v)** “Party” means the state, the petitioner, the child, any parent of the child and an
50 Indian child’s tribe intervening pursuant to the Indian child welfare act.

51 ~~(v)~~ **(w)** “Permanency goal” means the outcome of the permanency planning process
52 which may be reintegration, adoption, appointment of a permanent custodian or another
53 planned permanent living arrangement.

54 ~~(w)~~ **(x)** “Permanent custodian” means a judicially approved permanent guardian of a
55 child pursuant to K.S.A. 2008 Supp. 38-2272, and amendments thereto.

1 ~~(x)~~ (y) "Physical, mental or emotional abuse" means the infliction of physical, mental or
2 emotional harm or the causing of a deterioration of a child and may include, but shall not
3 be limited to, maltreatment or exploiting a child to the extent that the child's health or
4 emotional well-being is endangered.

5 ~~(y)~~ (z) "Placement" means the designation by the individual or agency having custody of
6 where and with whom the child will live.

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

9 ~~(aa)~~ (bb) "Secretary" means the secretary of social and rehabilitation services or the
10 secretary's designee.

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

17 ~~(cc)~~ (dd) "Sexual abuse" means any contact or interaction with a child in which the child
18 is being used for the sexual stimulation of the perpetrator, the child or another person.
19 Sexual abuse shall include allowing, permitting or encouraging a child to engage in
20 prostitution or to be photographed, filmed or depicted in pornographic material.

21 ~~(dd)~~ (ee) "Shelter facility" means any public or private facility or home other than a
22 juvenile detention facility that may be used in accordance with this code for the purpose
23 of providing either temporary placement for children in need of care prior to the issuance
24 of a dispositional order or longer term care under a dispositional order.

25 ~~(ee)~~ (ff) "Youth residential facility" means any home, foster home or structure which
26 provides 24-hour-a-day care for children and which is licensed pursuant to article 5 of
27 chapter 65 of the Kansas Statutes Annotated, and amendments thereto.

28 **Sec. 6.** K.S.A. 2008 Supp. 38-2203 is hereby amended to read as follows: 38-2203. (a)
29 Proceedings concerning any child who may be a child in need of care shall be governed
30 by this code, except in those instances when the court knows or has reason to know that
31 an Indian child is involved in the proceeding, in which case, the Indian child welfare act of
32 1978 (25 U.S.C. §1901 et seq.) applies. The Indian child welfare act may apply to: The
33 filing to initiate a child in need of care proceeding (K.S.A. 2008 Supp. 38-2234, and
34 amendments thereto); ex parte custody orders (K.S.A. 2008 Supp. 38-2242, and
35 amendments thereto); temporary custody hearing (K.S.A. 2008 Supp. 38-2243, and
36 amendments thereto); adjudication (K.S.A. 2008 Supp. 38-2247, and amendments
37 thereto); burden of proof (K.S.A. 2008 Supp. 38-2250, and amendments thereto);
38 disposition (K.S.A. 2008 Supp. 38-2255, and amendments thereto); permanency
39 hearings (K.S.A. 2008 Supp. 38-2264, and amendments thereto); termination of parental
40 rights (K.S.A. 2008 Supp. 38-2267, 38-2268 and 38-2269, and amendments thereto);
41 establishment of permanent custodianship (K.S.A. 2008 Supp. 38-2268 and 38-2272,
42 and amendments thereto); the placement of a child in any foster, pre-adoptive and
43 adoptive home and the placement of a child in a guardianship arrangement under
44 chapter 59, article 30 of the Kansas Statutes Annotated, and amendments thereto.

45 (b) Subject to the uniform child custody jurisdiction and enforcement act, K.S.A. 38-1336
46 through 38-1377, and amendments thereto, the district court shall have original
47 jurisdiction of proceedings pursuant to this code.

48 (c) The court acquires jurisdiction over a child by the filing of a petition pursuant to this
49 code or upon issuance of an ex parte order pursuant to K.S.A. 2008 Supp. 38-2242, and
50 amendments thereto. When the court acquires jurisdiction over a child in need of care,
51 jurisdiction may continue until the child has: (1) Attained the age of 21 years; (2) been
52 adopted; or (3) been discharged by the court. Any child 18 years of age or over may
53 request, in writing to the court, that the jurisdiction of the court cease. The court shall give
54 notice of the request to all parties and interested parties and 30 days after receipt of the
55 request, jurisdiction will cease.

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

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

11 **(f) A court's order affecting a child's custody, residency, parenting time and**
12 **visitation that is issued in a proceeding pursuant to this code, shall take**
13 **precedence over such orders in a civil custody case, a proceeding under article 31**
14 **of chapter 60 of the Kansas Statutes Annotated, and amendments thereto**
15 **(protection from abuse act), or a comparable case in another jurisdiction, except**
16 **as provided by K.S.A. 38-1336 et seq., and amendments thereto (uniform child**
17 **custody jurisdiction and enforcement act).**

18 **Sec. 7.** K.S.A. 2008 Supp. 38-2208 is hereby amended to read as follows: 38-2208. (a)
19 The citizen review board shall have the duty, authority and power to:

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

25 (2) determine the progress which has been made to acquire a permanent home for the
26 child in need of care;

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

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

29 (b) The initial review by the citizen review board may take place any time after a petition
30 is filed for a child in need of care.

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

33 (d) The judge shall consider the citizen review board recommendations in making an
34 authorized dispositional order pursuant to K.S.A. 2008 Supp. 38-2255, and amendments
35 thereto, and may incorporate the citizen review board's recommendations into an order in
36 lieu of a hearing.

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

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

41 **Sec. 8.** K.S.A. 2008 Supp. 38-2212 is hereby amended to read as follows: 38-2212. (a)

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

47 (b) *Free exchange of information.* Pursuant to K.S.A. 2008 Supp. 38-2210, and
48 amendments thereto, the secretary, ~~agents of the secretary~~ and juvenile intake and
49 assessment agencies shall participate in the free exchange of information concerning a
50 child who is alleged or adjudicated to be in need of care.

51 (c) *Necessary access.* The following persons or entities shall have access to information
52 from agency records. Access shall be limited to information reasonably necessary to
53 carry out their lawful responsibilities, to maintain their personal safety and the personal
54 safety of individuals in their care, or to educate, diagnose, treat, care for or protect a child
55 alleged to be in need of care. Information authorized to be disclosed pursuant to this

- 1 subsection shall not contain information which identifies a reporter of a child who is
2 alleged or adjudicated to be a child in need of care.
- 3 (1) A child named in the report or records, a guardian *ad litem* appointed for the child and
4 the child's attorney.
- 5 (2) A parent or other person responsible for the welfare of a child, or such person's legal
6 representative.
- 7 (3) A court-appointed special advocate for a child, a citizen review board or other
8 advocate which reports to the court.
- 9 (4) A person licensed to practice the healing arts or mental health profession in order to
10 diagnose, care for, treat or supervise: (A) A child whom such service provider reasonably
11 suspects may be in need of care; (B) a member of the child's family; or (C) a person who
12 allegedly abused or neglected the child.
- 13 (5) A person or entity licensed or registered by the secretary of health and environment or
14 approved by the secretary of social and rehabilitation services to care for, treat or
15 supervise a child in need of care.
- 16 (6) A coroner or medical examiner when such person is determining the cause of death
17 of a child.
- 18 (7) The state child death review board established under K.S.A. 22a-243, and
19 amendments thereto.
- 20 (8) An attorney for a private party who files a petition pursuant to subsection (b) of K.S.A.
21 2008 Supp. 38-2233, and amendments thereto.
- 22 (9) A foster parent, prospective foster parent, permanent custodian, prospective
23 permanent custodian, adoptive parent or prospective adoptive parent. In order to assist
24 such person's in making an informed decision regarding acceptance of a particular child,
25 to help the family anticipate problems which may occur during the child's placement, and
26 to help the family meet the needs of the child in a constructive manner, the secretary
27 shall seek and shall provide the following information to such person's as the information
28 becomes available to the secretary:
- 29 (A) Strengths, needs and general behavior of the child;
30 (B) circumstances which necessitated placement;
31 (C) information about the child's family and the child's relationship to the family which
32 may affect the placement;
33 (D) important life experiences and relationships which may affect the child's feelings,
34 behavior, attitudes or adjustment;
35 (E) medical history of the child, including third-party coverage which may be available to
36 the child; and
37 (F) education history, to include present grade placement, special strengths and
38 weaknesses.
- 39 (10) The state protection and advocacy agency as provided by subsection (a)(10) of
40 K.S.A. 65-5603 or subsection (a)(2)(A) and (B) of K.S.A. 74-5515, and amendments
41 thereto.
- 42 (11) Any educational institution to the extent necessary to enable the educational
43 institution to provide the safest possible environment for its pupils and employees.
- 44 (12) Any educator to the extent necessary to enable the educator to protect the personal
45 safety of the educator and the educator's pupils.
- 46 (13) Any other federal, state or local government executive branch entity or any agent of
47 such entity, having a need for such information in order to carry out such entity's
48 responsibilities under the law to protect children from abuse and neglect.
- 49 (d) *Specified access*. The following persons or entities shall have access to information
50 contained in agency records as specified. Information authorized to be disclosed
51 pursuant to this subsection shall not contain information which identifies a reporter of a
52 child who is alleged or adjudicated to be a child in need of care.
- 53 (1) Information from confidential agency records of the department of social and
54 rehabilitation services, a law enforcement agency or any juvenile intake and assessment
55 worker of a child alleged or adjudicated to be in need of care shall be available to
56 members of the standing house or senate committee on judiciary, house committee on

1 corrections and juvenile justice, house committee on appropriations, senate committee
2 on ways and means, legislative post audit committee and any joint committee with
3 authority to consider children's and families' issues, when carrying out such member's or
4 committee's official functions in accordance with K.S.A. 75-4319, and amendments
5 thereto, in a closed or executive meeting. Except in limited conditions established by 2/3
6 of the members of such committee, records and reports received by the committee shall
7 not be further disclosed. Unauthorized disclosure may subject such member to discipline
8 or censure from the house of representatives or senate. The secretary of social and
9 rehabilitation services shall not summarize the outcome of department actions regarding
10 a child alleged to be a child in need of care in information available to members of such
11 committees.

12 (2) The secretary of social and rehabilitation services may summarize the outcome of
13 department actions regarding a child alleged to be a child in need of care to a person
14 having made such report.

15 (3) ~~Public disclosure of~~ Information from confidential reports or records of a child
16 alleged or adjudicated to be a child in need of care ~~shall be limited to~~ **may be**
17 **disclosed to the public when:**

18 (A) ~~Confirmation of factual details with respect to how the case was handled,~~
19 ~~provided, however, that the information does not violate the privacy of the child, or~~
20 ~~the child's siblings, parents or guardians. (B) Confidential information may be~~
21 ~~released to the public only with the express written permission of~~ The individuals
22 involved or their representatives **have given express written consent; or (B) the**
23 **investigation of the abuse or neglect of the child or the filing of a petition alleging a**
24 **child to be in need of care has become public knowledge, provided, however, that**
25 **the agency shall limit disclosure to confirmation of procedural details relating to**
26 **the handling of the case by professionals.**

27 (e) *Court order.* Notwithstanding the provisions of this section, a court of competent
28 jurisdiction, after in camera inspection, may order disclosure of confidential agency
29 records pursuant to a determination that the disclosure is in the best interests of the child
30 who is the subject of the reports or that the records are necessary for the proceedings of
31 the court and otherwise admissible as evidence. The court shall specify the terms of
32 disclosure and impose appropriate limitations.

33 (f) (1) Notwithstanding any other provision of law to the contrary, except as provided in
34 paragraph ~~(2)~~ **(4)**, in the event that child abuse or neglect results in a child fatality or near
35 fatality, reports or records of a child **alleged or adjudicated to be** in need of care
36 received by the ~~department of social and rehabilitation services secretary,~~ a law
37 enforcement agency or any juvenile intake and assessment worker shall become a public
38 record and subject to disclosure pursuant to K.S.A. 45-215, and amendments thereto.

39 **(2)** Within seven days of receipt of a request in accordance with the procedures adopted
40 under K.S.A. 45-220, and amendments thereto, the secretary shall notify any affected
41 individual that an open records request has been made concerning such records. The
42 secretary or any affected individual may file a motion requesting the court to prevent
43 disclosure of such record or report, or any select portion thereof. If the affected individual
44 does not file such motion within seven days of notification, and the secretary has not filed
45 a motion, the secretary shall release the reports or records. ~~In reviewing~~ **If** such motion
46 **is filed,** the court shall consider the effect such disclosure may have upon an ongoing
47 criminal investigation, a pending prosecution, or the privacy of the child, if living, or the
48 child's siblings, parents or guardians. ~~Nothing herein is intended to require that an~~
49 ~~otherwise privileged communication lose its privileged character. If the court~~
50 ~~grants such motion,~~ **The court shall make written findings on the record justifying the**
51 **closing of the records and shall provide a copy of the journal entry to the affected**
52 **parties and the individual requesting disclosure pursuant to the Kansas open**
53 **records act, K.S.A. 45-215 et seq., and amendments thereto.**

54 **(3)** For reports or records requested pursuant to this subsection, the time limitations
55 specified in this subsection shall control to the extent of any inconsistency between this
56 subsection and K.S.A. 45-218, and amendments thereto. As used in this section, "near

1 fatality” means an act that, as certified by a person licensed to practice medicine and
2 surgery, places the child in serious or critical condition.

3 ~~(2)~~ (4) Nothing in this subsection shall allow the disclosure of reports, records or
4 documents concerning the child and such child’s biological parents which were created
5 prior to such child’s adoption. **Nothing herein is intended to require that an otherwise
6 privileged communication lose its privileged character.**

7 **Sec. 9.** K.S.A. 2008 Supp. 38-2242 is hereby amended to read as follows: 38-2242. (a)
8 The court, upon verified application, may issue *ex parte* an order directing that a child be
9 held in protective custody and, if the child has not been taken into custody, an order
10 directing that the child be taken into custody. The application shall state for each child:

11 (1) The applicant’s belief that the child is a child in need of care;
12 (2) that the child is likely to sustain harm if not immediately removed from the home;
13 (3) that allowing the child to remain in the home is contrary to the welfare of the child; and
14 (4) the facts relied upon to support the application, including efforts known to the
15 applicant to maintain the family unit and prevent the unnecessary removal of the child
16 from the child’s home, or the specific facts supporting that an emergency exists which
17 threatens the safety of the child.

18 (b) (1) The order of protective custody may be issued only after the court has determined
19 there is probable cause to believe the allegations in the application are true. The order
20 shall remain in effect until the temporary custody hearing provided for in K.S.A. 2008
21 Supp. 38-2243, and amendments thereto, unless earlier rescinded by the court.

22 (2) No child shall be held in protective custody for more than 72 hours, excluding
23 Saturdays, Sundays and legal holidays, unless within the 72-hour period a determination
24 is made as to the necessity for temporary custody in a temporary custody hearing. The
25 time spent in custody pursuant to K.S.A. 2008 Supp. 38-2232, and amendments thereto,
26 shall be included in calculating the 72-hour period. Nothing in this subsection shall be
27 construed to mean that the child must remain in protective custody for 72 hours. If a child
28 is in the protective custody of the secretary, the secretary shall allow at least one
29 supervised visit between the child and the parent or parents within such time period as
30 the child is in protective custody. The court may prohibit such supervised visit if the court
31 determines it is not in the best interest of the child.

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

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

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

39 (C) a youth residential facility;

40 (D) a shelter facility; or

41 (E) the secretary.

42 (2) If the secretary presents the court with a plan to provide services to a child or family
43 which the court finds will assure the safety of the child, the court may only place the child
44 in the protective custody of the secretary until the court finds the services are in place.

45 The court shall have the authority to require any person or entity agreeing to participate in
46 the plan to perform as set out in the plan. When the child is placed in the protective
47 custody of the secretary, the secretary shall have the discretionary authority to place the
48 child with a parent or to make other suitable placement for the child. When the child is
49 presently alleged, but not yet adjudicated, to be a child in need of care solely pursuant to
50 subsection (d)(9) or (d)(10) of K.S.A. 2008 Supp. 38-2202, and amendments thereto, the
51 child may be placed in a juvenile detention facility or other secure facility pursuant to an
52 order of protective custody for a period of not to exceed 24 hours, excluding Saturdays,
53 Sundays and legal holidays.

54 (d) The order of protective custody shall be served pursuant to subsection (a) of K.S.A.
55 2008 Supp. 38-2237, and amendments thereto, on the child’s parents and any other

1 person having legal custody of the child. The order shall prohibit the removal of the child
2 from the court's jurisdiction without the court's permission.

3 (e) If the court issues an order of protective custody, the court may also enter an order
4 restraining any alleged perpetrator of physical, sexual, mental or emotional abuse of the
5 child from residing in the child's home; visiting, contacting, harassing or intimidating the
6 child, other family member or witness; or attempting to visit, contact, harass or intimidate
7 the child, other family member or witness. Such restraining order shall be served by
8 personal service pursuant to subsection (a) of K.S.A. 2008 Supp. 38-2237, and
9 amendments thereto, on any alleged perpetrator to whom the order is directed.

10 (f) (1) The court shall not enter ~~an~~ **the initial** order removing a child from the custody of a
11 parent pursuant to this section unless the court first finds probable cause that: (A)(i) the
12 child is likely to sustain harm if not immediately removed from the home;

13 (ii) allowing the child to remain in home is contrary to the welfare of the child; or

14 (iii) immediate placement of the child is in the best interest of the child; and

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

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

21 **Sec. 10.** K.S.A. 2008 Supp. 38-2243 is hereby amended to read as follows: 38-2243. (a)
22 Upon notice and hearing, the court may issue an order directing who shall have
23 temporary custody and may modify the order during the pendency of the proceedings as
24 will best serve the child's welfare.

25 (b) A hearing pursuant to this section shall be held within 72 hours, excluding Saturdays,
26 Sundays and legal holidays, following a child having been taken into protective custody.

27 (c) Whenever it is determined that a temporary custody hearing is required, the court
28 shall immediately set the time and place for the hearing. Notice of a temporary custody
29 hearing shall be given to all parties and interested parties.

30 (d) Notice of the temporary custody hearing shall be given at least 24 hours prior to the
31 hearing. The court may continue the hearing to afford the 24 hours prior notice or, with
32 the consent of the party or interested party, proceed with the hearing at the designated
33 time. If an order of temporary custody is entered and the parent or other person having
34 custody of the child has not been notified of the hearing, did not appear or waive
35 appearance and requests a rehearing, the court shall rehear the matter without
36 unnecessary delay.

37 (e) Oral notice may be used for giving notice of a temporary custody hearing where there
38 is insufficient time to give written notice. Oral notice is completed upon filing a certificate
39 of oral notice.

40 (f) The court may enter an order of temporary custody after determining there is probable
41 cause to believe that the: (1) Child is dangerous to self or to others; (2) child is not likely
42 to be available within the jurisdiction of the court for future proceedings; or (3) health or
43 welfare of the child may be endangered without further care.

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

46 (A) A parent or other person having custody of the child and may enter a restraining order
47 pursuant to subsection (h);

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

51 (C) a youth residential facility;

52 (D) a shelter facility; or

53 (E) the secretary.

54 (2) If the secretary presents the court with a plan to provide services to a child or family
55 which the court finds will assure the safety of the child, the court may only place the child
56 in the temporary custody of the secretary until the court finds the services are in place.

1 The court shall have the authority to require any person or entity agreeing to participate in
2 the plan to perform as set out in the plan. When the child is placed in the temporary
3 custody of the secretary, the secretary shall have the discretionary authority to place the
4 child with a parent or to make other suitable placement for the child. When the child is
5 presently alleged, but not yet adjudicated to be a child in need of care solely pursuant to
6 subsection (d)(9) or (d)(10) of K.S.A. 2008 Supp. 38-2202, and amendments thereto, the
7 child may be placed in a juvenile detention facility or other secure facility, but the total
8 amount of time that the child may be held in such facility under this section and K.S.A.
9 2008 Supp. 38-2242, and amendments thereto, shall not exceed 24 hours, excluding
10 Saturdays, Sundays and legal holidays. The order of temporary custody shall remain in
11 effect until modified or rescinded by the court or an adjudication order is entered but not
12 exceeding 60 days, unless good cause is shown and stated on the record.

13 (h) If the court issues an order of temporary custody, the court may also enter an order
14 restraining any alleged perpetrator of physical, sexual, mental or emotional abuse of the
15 child from residing in the child's home; visiting, contacting, harassing or intimidating the
16 child; or attempting to visit, contact, harass or intimidate the child, other family members
17 or witnesses. Such restraining order shall be served by personal service pursuant to
18 subsection (a) of K.S.A. 2008 Supp. 38-2237, and amendments thereto, on any alleged
19 perpetrator to whom the order is directed.

20 (i) (1) The court shall not enter ~~an~~ **the initial** order removing a child from the custody of a
21 parent pursuant to this section unless the court first finds probable cause that: (A)(i) the
22 child is likely to sustain harm if not immediately removed from the home;
23 (ii) allowing the child to remain in home is contrary to the welfare of the child; or
24 (iii) immediate placement of the child is in the best interest of the child; and
25 (B) reasonable efforts have been made to maintain the family unit and prevent the
26 unnecessary removal of the child from the child's home or that an emergency exists
27 which threatens the safety to the child.

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

31 (j) If the court enters an order of temporary custody that provides for placement of the
32 child with a person other than the parent, the court shall make a child support
33 determination pursuant to K.S.A. 2008 Supp. 38-2277, and amendments thereto.

34 **Sec. 11.** K.S.A. 2008 Supp. 38-2251 is hereby amended to read as follows: 38-2251. (a)
35 If the court finds that the child is not a child in need of care, the court shall enter an order
36 dismissing the proceedings.

37 (b) If the court finds that the child is a child in need of care, the court shall enter an order
38 adjudicating the child to be a child in need of care and may proceed to enter other orders
39 as authorized by this code.

40 (c) ~~A finding that a child subject to this code is a child in need of care shall be~~
41 ~~entered without undue delay. If the child has been removed from the child's home,~~
42 ~~an order of adjudication shall be entered as soon as practicable but not more than~~
43 ~~60 days from the date of removal unless an order of informal supervision or an~~
44 ~~order of continuance for good cause has been entered. A final adjudication or~~
45 ~~dismissal shall be entered within 60 days from the date of the filing of the petition,~~
46 ~~unless good cause for a continuance is shown on the record.~~

47 **Sec. 12.** K.S.A. 2008 Supp. 38-2255 is hereby amended to read as follows: 38-2255. (a)
48 *Considerations.* Prior to entering an order of disposition, the court shall give consideration
49 to:

- 50 (1) The child's physical, mental and emotional condition;
- 51 (2) the child's need for assistance;
- 52 (3) the manner in which the parent participated in the abuse, neglect or abandonment of
53 the child;
- 54 (4) any relevant information from the intake and assessment process; and
- 55 (5) the evidence received at the dispositional hearing.

1 (b) **Placement Custody with a parent.** The court may place the child in the custody of
2 either of the child's parents subject to terms and conditions which the court prescribes to
3 assure the proper care and protection of the child, including, but not limited to:

- 4 (1) Supervision of the child and the parent by a court services officer;
5 (2) participation by the child and the parent in available programs operated by an
6 appropriate individual or agency; and
7 (3) any special treatment or care which the child needs for the child's physical, mental or
8 emotional health and safety.

9 (c) *Removal of a child from custody of a parent.* The court shall not enter ~~an~~ **the initial**
10 order removing a child from the custody of a parent pursuant to this section unless the
11 court first finds probable cause that: (1)(A) The child is likely to sustain harm if not
12 immediately removed from the home;

- 13 (B) allowing the child to remain in home is contrary to the welfare of the child; or
14 (C) immediate placement of the child is in the best interest of the child; and
15 (2) reasonable efforts have been made to maintain the family unit and prevent the
16 unnecessary removal of the child from the child's home or that an emergency exists
17 which threatens the safety to the child.

18 (d) *Custody and placement of a child removed from the custody of a parent.* If the court
19 has made the findings required by subsection (c), the court shall enter an order awarding
20 custody to a relative of the child or to a person with whom the child has close emotional
21 ties **who shall not be required to be licensed under article 5 of chapter 65 of the**
22 **Kansas Statutes Annotated, and amendments thereto**, to any other suitable person,
23 to a shelter facility, to a youth residential facility or to the secretary. Custody awarded
24 under this subsection shall continue until further order of the court.

25 (1) When custody is awarded to the secretary, the secretary shall consider any
26 placement recommendation by the court and notify the court of the placement or
27 proposed placement of the child within 10 days of the order awarding custody. ~~(A)~~ After
28 providing the parties or interested parties notice and opportunity to be heard, the court
29 may determine whether the secretary's placement or proposed placement is contrary to
30 the welfare or in the best interests of the child. In making that determination the court
31 shall consider the health and safety needs of the child and the resources available to
32 meet the needs of children in the custody of the secretary. If the court determines that the
33 placement or proposed placement is contrary to the welfare or not in the best interests of
34 the child, the court shall notify the secretary, who shall then make an alternative
35 placement.

36 ~~(B) The secretary may propose and the court may order the child to be placed in~~
37 ~~the custody of a parent or parents if the secretary has provided and the court has~~
38 ~~approved an appropriate safety action plan which includes services to be~~
39 ~~provided. The court may order the parent or parents and the child to perform tasks~~
40 ~~as set out in the safety action plan.~~

41 (2) The custodian designated under this subsection shall notify the court in writing at least
42 10 days prior to any planned placement with a parent. The written notice shall state the
43 basis for the custodian's belief that placement with a parent is no longer contrary to the
44 welfare or best interest of the child. Upon reviewing the notice, the court may allow the
45 custodian to proceed with the planned placement or may set the date for a hearing to
46 determine if the child shall be allowed to return home. If the court sets a hearing on the
47 matter, the custodian shall not return the child home without written consent of the court.

48 (3) The court may grant any person reasonable rights to visit the child upon motion of the
49 person and a finding that the visitation rights would be in the best interests of the child.

50 (4) The court may enter an order restraining any alleged perpetrator of physical, mental
51 or emotional abuse or sexual abuse of the child from residing in the child's home; visiting,
52 contacting, harassing or intimidating the child, other family member or witness; or
53 attempting to visit, contact, harass or intimidate the child, other family member or witness.

54 Such restraining order shall be served by personal service pursuant to subsection (a) of
55 K.S.A. 2008 Supp. 38-2237, and amendments thereto, on any alleged perpetrator to
56 whom the order is directed.

1 (5) The court shall provide a copy of any orders entered within 10 days of entering the
2 order to the custodian designated under this subsection.

3 (e) *Further determinations regarding a child removed from the home.* If custody has been
4 awarded under subsection (d) to a person other than a parent, a permanency plan shall
5 be provided or prepared pursuant to K.S.A. 2008 Supp. 38-2264, and amendments
6 hereto. If a permanency plan is provided at the dispositional hearing, the court may
7 determine whether reintegration is a viable alternative or, if reintegration is not a viable
8 alternative, whether the child should be placed for adoption or a permanent custodian
9 appointed. In determining whether reintegration is a viable alternative, the court shall
10 consider:

11 (1) Whether a parent has been found by a court to have committed one of the following
12 crimes or to have violated the law of another state prohibiting such crimes or to have
13 aided and abetted, attempted, conspired or solicited the commission of one of these
14 crimes: Murder in the first degree, K.S.A. 21-3401, and amendments thereto, murder in
15 the second degree, K.S.A. 21-3402, and amendments thereto, capital murder, K.S.A. 21-
16 3439, and amendments thereto, voluntary manslaughter, K.S.A. 21-3403, and
17 amendments thereto, or a felony battery that resulted in bodily injury;

18 (2) whether a parent has subjected the child or another child to aggravated
19 circumstances;

20 (3) whether a parent has previously been found to be an unfit parent in proceedings
21 under this code or in comparable proceedings under the laws of another state or the
22 federal government;

23 (4) whether the child has been in extended out of home placement;

24 (5) whether the parents have failed to work diligently toward reintegration;

25 (6) whether the secretary has provided the family with services necessary for the safe
26 return of the child to the home; and

27 (7) whether it is reasonable to expect reintegration to occur within a time frame consistent
28 with the child's developmental needs.

29 (f) *Proceedings if reintegration is not a viable alternative.* If the court determines that
30 reintegration is not a viable alternative, proceedings to terminate parental rights and
31 permit placement of the child for adoption or appointment of a permanent custodian shall
32 be initiated unless the court finds that compelling reasons have been documented in the
33 case plan why adoption or appointment of a permanent custodian would not be in the
34 best interests of the child. If compelling reasons have not been documented, the county
35 or district attorney shall file a motion within 30 days to terminate parental rights or a
36 motion to appoint a permanent custodian within 30 days and the court shall hold a
37 hearing on the motion within 90 days of its filing. No hearing is required when the parents
38 voluntarily relinquish parental rights or consent to the appointment of a permanent
39 custodian.

40 (g) *Additional Orders.* In addition to or in lieu of any other order authorized by this section:

41 (1) The court may order the child and the parents of any child who has been adjudicated
42 a child in need of care to attend counseling sessions as the court directs. The expense of
43 the counseling may be assessed as an expense in the case. No mental health provider
44 shall charge a greater fee for court-ordered counseling than the provider would have
45 charged to the person receiving counseling if the person had requested counseling on
46 the person's own initiative.

47 (2) If the court has reason to believe that a child is before the court due, in whole or in
48 part, to the use or misuse of alcohol or a violation of the uniform controlled substances
49 act by the child, a parent of the child, or another person responsible for the care of the
50 child, the court may order the child, parent of the child or other person responsible for the
51 care of the child to submit to and complete an alcohol and drug evaluation by a qualified
52 person or agency and comply with any recommendations. If the evaluation is performed
53 by a community-based alcohol and drug safety program certified pursuant to K.S.A. 8-
54 1008, and amendments thereto, the child, parent of the child or other person responsible
55 for the care of the child shall pay a fee not to exceed the fee established by that statute. If

1 the court finds that the child and those legally liable for the child's support are indigent,
 2 the fee may be waived. In no event shall the fee be assessed against the secretary.
 3 (3) If child support has been requested and the parent or parents have a duty to support
 4 the child, the court may order one or both parents to pay child support and, when custody
 5 is awarded to the secretary, the court shall order one or both parents to pay child support.
 6 The court shall determine, for each parent separately, whether the parent is already
 7 subject to an order to pay support for the child. If the parent is not presently ordered to
 8 pay support for any child who is subject to the jurisdiction of the court and the court has
 9 personal jurisdiction over the parent, the court shall order the parent to pay child support
 10 in an amount determined under K.S.A. 2008 Supp. 38-2277, and amendments thereto.
 11 Except for good cause shown, the court shall issue an immediate income withholding
 12 order pursuant to K.S.A. 23-4,105 et seq., and amendments thereto, for each parent
 13 ordered to pay support under this subsection, regardless of whether a payor has been
 14 identified for the parent. A parent ordered to pay child support under this subsection shall
 15 be notified, at the hearing or otherwise, that the child support order may be registered
 16 pursuant to K.S.A. 2008 Supp. 38-2279, and amendments thereto. The parent shall also
 17 be informed that, after registration, the income withholding order may be served on the
 18 parent's employer without further notice to the parent and the child support order may be
 19 enforced by any method allowed by law. Failure to provide this notice shall not affect the
 20 validity of the child support order.

21 **Sec. 13.** K.S.A. 2008 Supp. 38-2258 is hereby amended to read as follows: 38-2258. (a)
 22 Except as provided in K.S.A. 2008 Supp. 38-2255(d)(2) and 38-2259, and amendments
 23 thereto, if a child has been in the same foster home or shelter facility for six months or
 24 longer, or has been placed by the secretary in the home of a parent or relative, the
 25 secretary shall give written notice of any plan to move the child to a different placement
 26 unless the move is to the selected preadoptive family for the purpose of facilitating
 27 adoption. The notice shall be given to: (1) The court having jurisdiction over the child; (2)
 28 **the petitioner; (3) the attorney for the parents, if any; (4) each parent whose address**
 29 **is available; ~~(3)~~ (5) the foster parent or custodian from whose home or shelter facility it is**
 30 **proposed to remove the child; ~~(4)~~ (6) the child, if 12 or more years of age; and ~~(5)~~ (7) the**
 31 **child's guardian ad litem; (8) any other party or interested party; and (9) the child's**
 32 **court appointed special advocate.**

33 (b) The notice shall state the placement to which the secretary plans to transfer the child
 34 and the reason for the proposed action. The notice shall be mailed by first class mail 30
 35 days in advance of the planned transfer, except that the secretary shall not be required to
 36 wait 30 days to transfer the child if all persons enumerated in subsection (a) (2) through
 37 ~~(5)~~ (8) consent in writing to the transfer.

38 (c) Within 10 days after receipt of the notice, any person **enumerated in (a)(2) through**
 39 **(8)** receiving notice as provided above may request, either orally or in writing, that the
 40 court conduct a hearing to determine whether or not the change in placement is in the
 41 best interests of the child concerned. When the request has been received, the court
 42 shall schedule a hearing and immediately notify the secretary of the request and the time
 43 and date the matter will be heard. The court shall give notice of the hearing to persons
 44 enumerated in subsection (a) (2) through ~~(5)~~ (9). **If the court does not receive a**
 45 **request for hearing within the specified time, the change in placement may occur**
 46 **prior to the expiration of the 30 days.** The secretary shall not change the placement of
 47 the child, except for the purpose of adoption, unless the change is approved by the court.

48 (d) When, after the notice set out above, a child in the custody of the secretary is
 49 removed from the home of a parent after having been placed in the home of a parent for
 50 a period of six months or longer, the secretary shall request a finding that: (1)(A) The
 51 child is likely to sustain harm if not immediately removed from the home;
 52 (B) allowing the child to remain in home is contrary to the welfare of the child; or
 53 (C) immediate placement of the child is in the best interest of the child; and
 54 (2) reasonable efforts have been made to maintain the family unit and prevent the
 55 unnecessary removal of the child from the child's home or that an emergency exists
 56 which threatens the safety to the child.

1 (e) The secretary shall present to the court in writing the efforts to maintain the family unit
2 and prevent the unnecessary removal of the child from the child's home. In making the
3 findings, the court may rely on documentation submitted by the secretary or may set the
4 date for a hearing on the matter. If the secretary requests such finding, the court, not
5 more than 45 days from the date of the request, shall provide the secretary with a written
6 copy of the findings by the court for the purpose of documenting these orders.

7 **Sec. 14.** K.S.A. 2008 Supp. 38-2264 is hereby amended to read as follows: 38-2264. (a)
8 A permanency hearing is a proceeding conducted by the court or by a citizen review
9 board for the purpose of determining progress toward accomplishment of a permanency
10 plan as established by K.S.A. 2008 Supp. 38-2263, and amendments thereto.

11 (b) The court or a citizen review board shall hear and the court shall determine whether
12 and, if applicable, when the child will be:

13 (1) Reintegrated with the child's parents;

14 (2) placed for adoption;

15 (3) placed with a permanent custodian; or

16 (4) if the secretary has documented compelling reasons why it would not be in the child's
17 best interests for a placement in one of the placements pursuant to paragraphs (1), (2) or
18 (3) placed in another planned permanent arrangement.

19 (c) The court shall enter a finding as to whether ~~the person or entity having custody of~~
20 ~~the child has made~~ reasonable efforts ~~to accomplish the permanency plan~~ **have**
21 **been made by appropriate public or private agencies to rehabilitate the family and**
22 **achieve the permanency goal** in place at the time of the hearing.

23 (d) A permanency hearing shall be held within 12 months of the date the court authorized
24 the child's removal from the home and not less frequently than every 12 months
25 thereafter.

26 (e) If the court determines at any time other than during a permanency hearing that
27 reintegration may not be a viable alternative for the child, a permanency hearing shall be
28 held no later than 30 days following that determination.

29 (f) When the court finds that reintegration continues to be a viable alternative, the court
30 shall determine whether and, if applicable, when the child will be returned to the parent.

31 The court may rescind any of its prior dispositional orders and enter any dispositional
32 order authorized by this code or may order that a new plan for the reintegration be
33 prepared and submitted to the court. If reintegration cannot be accomplished as
34 approved by the court, the court shall be informed and shall schedule a hearing pursuant
35 to this section. No such hearing is required when the parents voluntarily relinquish
36 parental rights or consent to appointment of a permanent custodian.

37 (g) If the court finds reintegration is no longer a viable alternative, the court shall consider
38 whether: (1) The child is in a stable placement with a relative; (2) services set out in the
39 case plan necessary for the safe return of the child have been made available to the
40 parent with whom reintegration is planned; or (3) compelling reasons are documented in
41 the case plan to support a finding that neither adoption nor appointment of a permanent
42 custodian are in the child's best interest. If reintegration is not a viable alternative and
43 either adoption or appointment of a permanent custodian might be in the best interests of
44 the child, the county or district attorney or the county or district attorney's designee shall
45 file a motion to terminate parental rights or a motion to appoint a permanent custodian
46 within 30 days and the court shall set a hearing on such motion within 90 days of the
47 filing of such motion.

48 (h) If the court enters an order terminating parental rights to a child, or an agency has
49 accepted a relinquishment pursuant to K.S.A. 59-2124, and amendments thereto, the
50 requirements for permanency hearings shall continue until an adoption or appointment of
51 a permanent custodian has been accomplished. If the court determines that reasonable
52 efforts or progress have not been made toward finding an adoptive placement or
53 appointment of a permanent custodian or placement with a fit and willing relative, the
54 court may rescind its prior orders and make others regarding custody and adoption that
55 are appropriate under the circumstances. Reports of a proposed adoptive placement
56 need not contain the identity of the proposed adoptive parents.

1 ***(i) If permanency with one parent has been achieved without the termination of the***
2 ***other parent's rights, the court may, prior to dismissing the case, enter child***
3 ***custody orders, including residency and parenting time, that the court determines***
4 ***to be in the best interests of the child. The court shall complete a parenting plan***
5 ***pursuant to K.S.A. 60-1625, and amendments thereto.***

6 ***(1) Before entering a custody order under this subsection, the court shall inquire***
7 ***whether a custody order has been entered or is pending in a civil custody case by***
8 ***a court of competent jurisdiction within the state of Kansas.***

9 ***(2) If a civil custody case has been filed or is pending, a certified copy of the***
10 ***custody, residency and parenting time, orders shall be filed in the civil custody***
11 ***case. The court in the civil custody case may, after consultation with the court in***
12 ***the child in need of care case, enter an order declaring that the custody order in***
13 ***the child in need of care case shall become the custody order in the civil custody***
14 ***case.***

15 ***(3) A district court, on its own motion or upon the motion of any party, may order***
16 ***the consolidation of the child in need of care case with any open civil custody case***
17 ***involving the child and both of the child's parents. Custody, residency and***
18 ***parenting time orders entered in consolidated child in need of care and civil***
19 ***custody cases take precedence over any previous orders affecting both parents***
20 ***and the child that were entered in the civil custody case regarding the same or***
21 ***related issues. Following entry of a custody order in a consolidated case, the court***
22 ***shall dismiss the child in need of care case and, if necessary, return the civil***
23 ***custody case to the original court having jurisdiction over it.***

24 ***(4) If no civil custody case has been filed, the court may direct the parties to file a***
25 ***civil custody case and to file the custody orders from the child in need of care case***
26 ***in that case. Costs of the civil custody case may be assessed to the parties.***

27 ***(5) Nothing in this subsection shall operate to expand access to information that is***
28 ***confidential under K.S.A. 38-2209, and amendments thereto, and the confidentiality***
29 ***of such information shall be preserved in all filings in a civil custody case.***

30 ***(j) When permanency has been achieved to the satisfaction of the court, the court***
31 ***shall enter an order closing the case.***

32 **Sec. 15.** K.S.A. 2008 Supp. 38-2272 is hereby amended to read as follows: 38-2272. (a)

33 A permanent custodian may be appointed:

34 (1) With the consent and agreement of the parents and approval by the court;

35 (2) after a finding of unfitness pursuant to K.S.A. 2008 Supp. 38-2269, and amendments
36 thereto; or

37 (3) after termination of parental rights pursuant to K.S.A. 2008 Supp. 38-2270, and
38 amendments thereto.

39 (b) Upon the appointment of a permanent custodian, the secretary's custody of the child
40 shall cease. The court's jurisdiction over the child shall continue unless the court enters
41 an order terminating jurisdiction.

42 (c) Subject to subsection (d), a permanent custodian shall stand *in loco parentis* and shall
43 exercise all of the rights and responsibilities of a parent except the permanent custodian
44 shall not:

45 (1) Consent to an adoption of the child; and

46 (2) be subject to court ordered child support or medical support.

47 (d) When the court retains jurisdiction after appointment of a permanent custodian, the
48 court, in its order, may impose limitations or conditions upon the rights and
49 responsibilities of the permanent custodian including, but not limited to, the right to:

50 (1) Determine contact with the biological parent;

51 (2) consent to marriage;

52 (3) consent to psychosurgery, removal of a bodily organ or amputation of a limb;

53 (4) consent to sterilization;

54 (5) consent to behavioral and medical experiments;

55 (6) consent to withholding life-prolonging medical treatment;

56 (7) consent to placement in a treatment facility; or

1 (8) consent to placement in a psychiatric hospital or an institution for the developmentally
2 disabled.

3 (e) Absent a judicial finding of unfitness or court-ordered limitations pursuant to
4 subsection (d), a permanent custodian may share parental responsibilities with a parent
5 of the child as the permanent custodian determines is in the child's best interests.

6 Sharing parental responsibilities does not relieve the permanent custodian of legal
7 responsibility for the child.

8 (f) Parental consent to appointment of a permanent custodian shall be ~~on the record or~~
9 ~~executed by the parent of the child and in writing and shall be~~ acknowledged before
10 a judge of a court of record. ~~It or before an officer authorized by law to take~~
11 **acknowledgments. If the consent is acknowledged before a judge of a court of**
12 **record, it** shall be the duty of the court before which the consent is acknowledged to

13 advise the consenting parent of the consequences of the consent, including the following:

14 (1) Do you understand that your parental rights are not being terminated and you can be
15 ordered to pay child support and medical support for your child

16 (2) Do you understand that to get the rights you still have with your child, you must keep
17 the court up to date about how to contact you? This means that the court needs to always
18 have your current address and telephone number.

19 (3) Do you understand that if your child is ever placed for adoption, the court will try to let
20 you know by using the information you have given them? If your address and telephone
21 number are not up to date, you might not know your child is placed for adoption.

22 (4) Do you understand that if you want information about your child's health or education,
23 you will have to keep the information you give the court about where you are up to date
24 because the information will be sent to the latest address the court has

25 (5) Do you understand that you may be able to have some contact with your child, but
26 only if the permanent custodian decides it is in the child's best interests and if the court
27 allows the contact

28 (6) Do you understand that unless the court orders differently, the permanent custodian
29 has the right to make the following decisions about your child: The amount and type of
30 contact you have with the child; consent to your child's marriage; consent to medical
31 treatment; consent to mental health treatment; consent to placement in a psychiatric
32 hospital or an institution for the developmentally disabled; consent to behavioral and
33 medical experiments; consent to sterilization and consent to with-holding life-prolonging
34 medical treatment

35 (g) (1) A consent is final when executed, unless the parent whose consent is at issue,
36 prior to issuance of the order appointing a permanent custodian, proves by clear and
37 convincing evidence that the consent was not freely and voluntarily given. The burden of
38 proving the consent was not freely and voluntarily given shall rest with that parent.

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

42 (h) If a permanent custodian is appointed after a judicial finding of parental unfitness
43 without a termination of parental rights, the parent shall retain only the following rights
44 and responsibilities:

45 (1) The obligation to pay child support and medical support; and

46 (2) the right to inherit from the child.

47 (3) The right to consent to adoption of the child. All other parental rights transfer to the
48 permanent custodian.

49 (i) If a permanent custodian is appointed after termination of parental rights, the parent
50 retains no right or responsibilities to the child.

51 (j) Prior to appointing a permanent custodian, the court shall receive and consider an
52 assessment of any potential permanent custodian as provided in K.S.A. 59-2132, and
53 amendments thereto. In making an order appointing a permanent custodian the court
54 shall give preference, to the extent that the court finds it in the child's best interests, to
55 first appointing a permanent custodian who is a relative of the child or second a person
56 with whom the child has close emotional ties.

1 (k) If permanent custodians are divorced, such custodian's marriage is annulled or the
2 court orders separate maintenance, the court in that case has jurisdiction to make
3 custody determinations between the permanent custodians.

4 **Sec. 16.** K.S.A. 2008 Supp. 38-2273 is hereby amended to read as follows: (a) An appeal
5 may be taken by any party or interested party from any order of temporary custody,
6 adjudication, disposition, finding of unfitness or termination of parental rights.

7 (b) An appeal from an order entered by a district magistrate judge shall be to a district
8 judge. The appeal shall be heard on the basis of the record within 30 days from the date
9 the notice of appeal is filed. If no record was made of the proceedings, the trial shall be
10 de novo.

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

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

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

18 ***(f) While a case is on appeal from the district court, the district court or magistrate
19 court shall continue to have jurisdiction over all issues not specifically appealed
20 and shall conduct timely permanency hearings.***

21 **Sec. 17.** K.S.A. 2008 Supp. 38-2279 is hereby amended to read as follows: 38-2279.

22 **~~Withholding order~~ Order for child support; filing; service modification.** (a) A person
23 entitled to receive child support under an order issued pursuant to the code may file with
24 the clerk of the district court in the county in which the judgment was rendered the
25 original child support order and the original income withholding order, if any. If the original
26 child support or income withholding order is unavailable for any reason, a certified or
27 authenticated copy of the order may be substituted. The clerk of the district court shall
28 number the child support order as a case filed under chapter 60 of the Kansas Statutes
29 Annotated, and amendments thereto, and enter the numbering of the case on the
30 appearance docket of the case. Registration of a child support order under this section
31 shall be without cost or docket fee.

32 (b) If the number assigned to a case under the code appears in the caption of a
33 document filed pursuant to this section, the clerk of the district court may obliterate that
34 number and replace it with the new case number assigned pursuant to this section.

35 (c) The filing of the child support order shall constitute registration under this section.
36 Upon registration of the child support order, all matters related to that order, including, but
37 not limited to, modification of the order, shall proceed under the new case number ***except***
38 ***as otherwise provided in this section.*** Registration of a child support order under this
39 section does not confer jurisdiction in the registration case for custody, ***residency or***
40 ***parenting time*** ~~or visitation~~ issues.

41 (d) The person registering a child support order shall serve a copy of the registered child
42 support order and income withholding order, if any, upon the party or interested parties
43 by first-class mail. The person registering the child support order shall file, in the official
44 file for each child affected, either a copy of the registered order showing the new case
45 number or a statement that includes the caption, new case number and date of
46 registration of the child support order.

47 (e) If the secretary is entitled to receive payment under an order which may be registered
48 under this section, the county or district attorney shall take the actions permitted or
49 required in subsections (a) and

50 ~~(d) on behalf of the secretary, unless otherwise requested by~~ ***upon request of*** the
51 secretary.

52 (f) A child support order registered pursuant to this section shall have the same force and
53 effect as an original child support order entered under chapter 60 of the Kansas Statutes
54 Annotated, and amendments thereto, including, but not limited to:

55 (1) The registered order shall become a lien on the real estate of the judgment debtor in
56 the county from the date of registration;

1 (2) execution or other action to enforce the registered order may be had from the date of
2 registration;

3 (3) the registered order may itself be registered pursuant to any law, including, but not
4 limited to, the uniform interstate family support act, K.S.A. 23-9,101 et seq., and
5 amendments thereto; **and**

6 (4) if any installment of support due under the registered order becomes a dormant
7 judgment, it may be revived pursuant to K.S.A. 60-2404, and amendments thereto; ~~and.~~

8 ~~(5) (g) Subject to the provisions of K.S.A. 23-9,207, and amendments thereto,~~ the
9 court **in the registration case** shall have continuing jurisdiction over the child support
10 action and the parties thereto and subject matter and, except as otherwise provided in
11 subsection ~~(g) (h) or (i)~~, may modify any prior support order ~~when if~~ a material change in
12 circumstances is shown irrespective of the present domicile of the child or parents. **If**
13 **more than three years have passed since the date of the original support order or**
14 **the most recent modification order, a material change in circumstances need not**
15 **be shown.** The court may make a modification of child support retroactive to a date at
16 least one month after the date that the motion to modify was filed with the court.

17 ~~(g) If a motion to modify the child support order is filed within three months after the date~~
18 ~~of registration pursuant to this section, if no motion to modify the order has previously~~
19 ~~been heard and if (h) At the direction of the judge in the child in need of care case,~~
20 **the registration case may be consolidated with the child in need of care case**
21 **pursuant to the code of civil procedure so long as the child in need of care case is**
22 **open. While the cases are consolidated, any motion to modify the registered**
23 **support order shall be filed in the child in need of care case. If any support rights**
24 **are assigned, the assignee shall be treated as an interested party in the**
25 **consolidated cases for all proceedings involving the support order. Nothing in this**
26 **subsection shall be construed to prevent or limit enforcement of the support order.**

27 ~~(i) the moving party~~ **If the person requesting modification of current support** shows
28 that the support order was based upon one or more of the presumptions provided in
29 K.S.A. ~~2008~~ **2009** Supp. 38-2277, and amendments thereto, or upon a stipulation
30 pursuant to subsection (c) of K.S.A. ~~2008~~ **2009** Supp. 38-2277, and amendments thereto,
31 the court shall apply the Kansas child support guidelines adopted pursuant to K.S.A. 20-
32 165, and amendments thereto, without requiring a showing that a material change of
33 circumstances has occurred, without regard to any previous presumption or stipulation
34 used to determine the amount of the child support order and irrespective of the present
35 domicile of the child or parents. ~~Nothing in this subsection shall prevent or limit~~
36 ~~enforcement of the support order during the three months after the date of~~
37 ~~registration.~~

38 **Sec. 18.** K.S.A. 2008 Supp. 38-2304 is hereby amended to read as follows: 38-2304. (a)
39 Except as provided in K.S.A. 2008 Supp. 38-2347, and amendments thereto,
40 proceedings concerning a juvenile shall be governed by the provisions of this code.

41 (b) The district court shall have original jurisdiction to receive and determine proceedings
42 under this code.

43 (c) When a complaint is filed under this code, the juvenile shall be presumed to be
44 subject to this code, unless the contrary is proved.

45 (d) Once jurisdiction is acquired by the district court over an alleged juvenile offender,
46 except as otherwise provided in subsection (e), jurisdiction shall continue until one of the
47 following occurs:

48 (1) The complaint is dismissed;

49 (2) the juvenile is adjudicated not guilty at trial;

50 (3) the juvenile, after being adjudicated guilty and sentenced:

51 (i) Successfully completes the term of probation or order of assignment to community
52 corrections;

53 (ii) is discharged by the commissioner pursuant to K.S.A. 2008 Supp. 38-2376, and
54 amendments thereto;

55 (iii) reaches the juvenile's 21st birthday and no exceptions apply that extend jurisdiction
56 beyond age 21;

1 (4) the court terminates jurisdiction; or

2 (5) the offender is convicted of a new felony while the offender is incarcerated in a
3 juvenile correctional facility pursuant to K.S.A. 38-1671 prior to its repeal or K.S.A. 2008
4 Supp. 38-2373, and amendments thereto, for an offense, which if committed by an adult
5 would constitute the commission of a felony.

6 (e) Once jurisdiction is acquired by the district court over an alleged juvenile offender, it
7 shall continue beyond the juvenile offender's 21st birthday but no later than the juvenile
8 offender's 23rd birthday if either or both of the following conditions apply:

9 (1) The juvenile offender is sentenced pursuant to K.S.A. 2008 Supp. 38-2369, and
10 amendments thereto, and the term of the sentence including successful completion of
11 aftercare extends beyond the juvenile offender's 21st birthday; or

12 (2) the juvenile offender is sentenced pursuant to an extended jurisdiction juvenile
13 prosecution and continues to successfully serve the sentence imposed pursuant to the
14 revised Kansas juvenile justice code.

15 (f) Termination of jurisdiction pursuant to this section shall have no effect on the juvenile
16 offender's continuing responsibility to pay restitution ordered.

17 (g) (1) If a juvenile offender, at the time of sentencing, is in an out of home placement in
18 the custody of the secretary of social and rehabilitation services under the Kansas code
19 for care of children, the sentencing court may order the continued placement of the
20 juvenile offender as a child in need of care unless the offender was adjudicated for a
21 felony or a second or subsequent misdemeanor. If the adjudication was for a felony or a
22 second or subsequent misdemeanor, the continued placement cannot be ordered unless
23 the court finds there are compelling circumstances which, in the best interest of the
24 juvenile offender, require that the placement should be continued. In considering whether
25 compelling circumstances exist, the court shall consider the reports and
26 recommendations of the foster placement, the contract provider, the secretary of social
27 and rehabilitation services, the presentence investigation and all other relevant factors. If
28 the foster placement refuses to continue the juvenile in the foster placement the court
29 shall not order continued placement as a child in need of care.

30 (2) If a placement with the secretary of social and rehabilitation services is continued after
31 sentencing, the secretary shall not be responsible for any costs of sanctions imposed
32 under this code.

33 (3) If the juvenile offender is placed in the custody of the juvenile justice authority, the
34 secretary of social and rehabilitation services shall not be responsible for furnishing
35 services ordered in the child in need of care proceeding during the time of the placement
36 pursuant to the revised Kansas juvenile justice code. Nothing in this subsection shall
37 preclude the juvenile offender from accessing other services provided by the department
38 of social and rehabilitation services or any other state agency if the juvenile offender is
39 otherwise eligible for the services.

40 ***(h) A court's order affecting a child's custody, residency, parenting time and***
41 ***visitation that is issued in a proceeding pursuant to this code, shall take***
42 ***precedence over such orders in a proceeding under article 11 of chapter 38 of the***
43 ***Kansas Statutes Annotated, and amendments thereto (parentage act), a***
44 ***proceeding under article 16 of chapter 60 of the Kansas Statutes Annotated, and***
45 ***amendments thereto (divorce), a proceeding under article 31 of chapter 60 of the***
46 ***Kansas Statutes Annotated, and amendments thereto (protection from abuse act),***
47 ***a proceeding under article 21 of chapter 59 of the Kansas Statutes Annotated, and***
48 ***amendments thereto (adoption and relinquishment act), a proceeding under article***
49 ***30 of chapter 59 of the Kansas Statutes Annotated, and amendments thereto***
50 ***(guardians and conservators), or a comparable case in another jurisdiction, except***
51 ***as provided by K.S.A. 38-1336 et seq., and amendments thereto (uniform child***
52 ***custody jurisdiction and enforcement act).***

53 **Sec. 19.** K.S.A. 2008 Supp. 38-2305 is hereby amended to read as follows: 38-2305. (a)
54 Venue for proceedings in any case involving a juvenile shall be in any county where any
55 act of the alleged offense was committed.

1 (b) Except as provided in subsection (c), venue for sentencing proceedings shall be in the
2 county of the juvenile offender's residence or, if the juvenile offender is not a resident of
3 this state, in the county where the adjudication occurred. When the sentencing hearing is
4 to be held in a county other than where the adjudication occurred, upon adjudication, the
5 judge shall contact the sentencing court and advise the judge of the transfer. The
6 adjudicating court shall send immediately to the sentencing court a facsimile of the
7 complaint, the adjudication journal entry or judge's minutes, if available, and any
8 recommendations in regard to sentencing. Such documents shall be sent for purposes of
9 notification and shall not constitute original court documents. The adjudicating court shall
10 also send to the sentencing court a complete copy of the official and social files in the
11 case by mail within five working days of the adjudication.

12 (c) If the juvenile offender is adjudicated in a county other than the county of the juvenile
13 offender's residence, the sentencing hearing may be held in the county in which the
14 adjudication was made **or, if there are not any ongoing proceedings under the**
15 **Kansas code for care of children, in the county of the residence of the custodial**
16 **parent, parents, guardian or conservator** if the adjudicating judge, upon motion ~~by any~~
17 ~~person authorized to appeal,~~ finds that it is in the interest of justice. **If there are**
18 **ongoing proceedings under the revised Kansas code for care of children, then the**
19 **sentencing hearing shall be held in the county in which the proceedings under the**
20 **revised Kansas code for care of children are being held.**

21 **Sec. 20.** K.S.A. 2008 Supp. 38-2361 is hereby amended to read as follows:

22 (a) Upon adjudication as a juvenile offender pursuant to K.S.A. 2008 Supp. 38-2356, and
23 amendments thereto, modification of sentence pursuant to K.S.A. 2008 Supp. 38-2367,
24 and amendments thereto, or violation of a condition of sentence pursuant to K.S.A. 2008
25 Supp. 38-2368, and amendments thereto, and subject to subsection (a) of K.S.A. 2008
26 Supp. 38-2365, and amendments thereto, the court may impose one or more of the
27 following sentencing alternatives. In the event that any sentencing alternative chosen
28 constitutes an order authorizing or requiring removal of the juvenile from the juvenile's
29 home and such findings either have not previously been made or the findings are not or
30 may no longer be current, the court shall make determinations as required by K.S.A.
31 2008 Supp. 38-2334 and 38-2335, and amendments thereto.

32 (1) Place the juvenile on probation through court services or community corrections for a
33 fixed period, subject to terms and conditions the court deems appropriate consistent with
34 juvenile justice programs in the community.

35 (2) Order the juvenile to participate in a community based program available in such
36 judicial district subject to the terms and conditions the court deems appropriate. This
37 alternative shall not be ordered with the alternative in paragraph (12) and when ordered
38 with the alternative in paragraph (10) shall constitute a recommendation. Requirements
39 pertaining to child support may apply if custody is vested with other than a parent.

40 (3) Place the juvenile in the custody of a parent or other suitable person, subject to terms
41 and conditions consistent with juvenile justice programs in the community. This
42 alternative shall not be ordered with the alternative in paragraph (10) or (12).
43 Requirements pertaining to child support may apply if custody is vested with other than a
44 parent.

45 (4) Order the juvenile to attend counseling, educational, mediation or other sessions, or
46 to undergo a drug evaluation pursuant to subsection (b).

47 (5) Suspend or restrict the juvenile's driver's license or privilege to operate a motor
48 vehicle on the streets and highways of this state pursuant to subsection (c).

49 (6) Order the juvenile to perform charitable or community service work.

50 (7) Order the juvenile to make appropriate reparation or restitution pursuant to subsection
51 (d).

52 (8) Order the juvenile to pay a fine not exceeding \$1,000 pursuant to subsection (e).

53 (9) Place the juvenile under a house arrest program administered by the court pursuant
54 to K.S.A. 21-4603b, and amendments thereto.

55 (10) Place the juvenile in the custody of the commissioner as provided in K.S.A. 2008
56 Supp. 38-2365, and amendments thereto. This alternative shall not be ordered with the

1 alternative in paragraph (3) or (12). Except for a mandatory drug and alcohol evaluation,
2 when this alternative is ordered with alternatives in paragraphs (2), (4) and (9), such
3 orders shall constitute a recommendation by the court. Requirements pertaining to child
4 support shall apply under this alternative.

5 (11) Commit the juvenile to a sanctions house for a period no longer than 28 days subject
6 to the provisions of subsection (f).

7 (12) Commit the juvenile directly to the custody of the commissioner for a period of
8 confinement in a juvenile correctional facility and a period of aftercare pursuant to K.S.A.
9 2008 Supp. 38-2369, and amendments thereto. The provisions of K.S.A. 2008 Supp. 38-
10 2365, and amendments thereto, shall not apply to juveniles committed pursuant to this
11 provision, **provided however, that 21 days prior to the juvenile's release from a**
12 **juvenile correctional facility, the commissioner or designee shall notify the court of**
13 **the juvenile's anticipated release date. The court shall set and hold a permanency**
14 **hearing pursuant to K.S.A. 2008 Supp. 38-2365, and amendments thereto, within 7**
15 **days after the juvenile's release.** This alternative may be ordered with the alternative in
16 paragraph (7). Requirements pertaining to child support shall apply under this alternative.

17 (b) If the court orders the juvenile to attend counseling, educational, mediation or other
18 sessions, or to undergo a drug and alcohol evaluation pursuant to subsection (a)(4), the
19 following provisions apply:

20 (1) The court may order the juvenile offender to participate in counseling or mediation
21 sessions or a program of education, including placement in an alternative educational
22 program approved by a local school board. The costs of any counseling or mediation may
23 be assessed as expenses in the case. No mental health center shall charge a fee for
24 court-ordered counseling greater than what the center would have charged the person
25 receiving the counseling if the person had requested counseling on the person's own
26 initiative. No mediator shall charge a fee for court-ordered mediation greater than what
27 the mediator would have charged the person participating in the mediation if the person
28 had requested mediation on the person's own initiative. Mediation may include the victim
29 but shall not be mandatory for the victim; and

30 (2) if the juvenile has been adjudicated to be a juvenile by reason of a violation of a
31 statute that makes such a requirement, the court shall order and, if adjudicated for any
32 other offense, the court may order the juvenile to submit to and complete a drug and
33 alcohol evaluation by a community-based drug and alcohol safety action program
34 certified pursuant to K.S.A. 8-1008, and amendments thereto, and to pay a fee not to
35 exceed the fee established by that statute for such evaluation. The court may waive the
36 mandatory evaluation if the court finds that the juvenile completed a drug and alcohol
37 evaluation, approved by the community-based alcohol and drug safety action program,
38 within 12 months before sentencing. If the evaluation occurred more than 12 months
39 before sentencing, the court shall order the juvenile to resubmit to and complete the
40 evaluation and program as provided herein. If the court finds that the juvenile and those
41 legally liable for the juvenile's support are indigent, the court may waive the fee. In no
42 event shall the fee be assessed against the commissioner or the juvenile justice authority
43 nor shall the fee be assessed against the secretary of social and rehabilitation services or
44 the department of social and rehabilitation services if the juvenile is in the secretary's
45 care, custody and control.

46 (c) If the court orders suspension or restriction of a juvenile offender's driver's license or
47 privilege to operate a motor vehicle on the streets and highways of this state pursuant to
48 subsection (a)(5), the following provisions apply:

49 (1) The duration of the suspension ordered by the court shall be for a definite time period
50 to be determined by the court. Upon suspension of a license pursuant to this subsection,
51 the court shall require the juvenile offender to surrender the license to the court. The
52 court shall transmit the license to the division of motor vehicles of the department of
53 revenue, to be retained until the period of suspension expires. At that time, the licensee
54 may apply to the division for return of the license. If the license has expired, the juvenile
55 offender may apply for a new license, which shall be issued promptly upon payment of
56 the proper fee and satisfaction of other conditions established by law for obtaining a

1 license unless another suspension or revocation of the juvenile offender's privilege to
2 operate a motor vehicle is in effect. As used in this subsection, "highway" and "street"
3 have the meanings provided by K.S.A. 8-1424 and 8-1473, and amendments thereto.
4 Any juvenile offender who does not have a driver's license may have driving privileges
5 revoked. No Kansas driver's license shall be issued to a juvenile offender whose driving
6 privileges have been revoked pursuant to this section for a definite time period to be
7 determined by the court; and

8 (2) in lieu of suspending a juvenile offender's driver's license or privilege to operate a
9 motor vehicle on the highways of this state, the court may enter an order which places
10 conditions on the juvenile offender's privilege of operating a motor vehicle on the streets
11 and highways of this state, a certified copy of which the juvenile offender shall be
12 required to carry any time the juvenile offender is operating a motor vehicle on the streets
13 and highways of this state. The order shall prescribe a definite time period for the
14 conditions imposed. Upon entering an order restricting a juvenile offender's license, the
15 court shall require the juvenile offender to surrender such juvenile offender's license to
16 the court. The court shall transmit the license to the division of vehicles, together with a
17 copy of the order. Upon receipt thereof, the division of vehicles shall issue without charge
18 a driver's license which shall indicate on its face that conditions have been imposed on
19 the juvenile offender's privilege of operating a motor vehicle and that a certified copy of
20 the order imposing the conditions is required to be carried by the juvenile offender when
21 operating a motor vehicle on the streets and highways of this state. If the juvenile
22 offender is a nonresident, the court shall cause a copy of the order to be transmitted to
23 the division and the division shall forward a copy of it to the motor vehicle administrator of
24 the juvenile offender's state of issuance. The court shall furnish to any juvenile offender
25 whose driver's license has had conditions imposed on it under this section a copy of the
26 order, which shall be recognized as a valid Kansas driver's license until the division
27 issues the restricted license provided for in this subsection. Upon expiration of the period
28 of time for which conditions are imposed pursuant to this subsection, the juvenile offender
29 may apply to the division for the return of the license previously surrendered by the
30 juvenile offender. In the event the license has expired, the juvenile offender may apply to
31 the division for a new license, which shall be issued immediately by the division upon
32 payment of the proper fee and satisfaction of the other conditions established by law
33 unless such juvenile offender's privilege to operate a motor vehicle on the streets and
34 highways of this state has been suspended or revoked prior thereto. If any juvenile
35 offender violates any of the conditions imposed under this subsection, the juvenile
36 offender's driver's license or privilege to operate a motor vehicle on the streets and
37 highways of this state shall be revoked for a period as determined by the court in which
38 the juvenile offender is convicted of violating such conditions.

39 (d) The following provisions apply to the court's determination of whether to order
40 reparation or restitution pursuant to subsection (a)(7):

41 (1) The court shall order the juvenile to make reparation or restitution to the aggrieved
42 party for the damage or loss caused by the juvenile offender's offense unless it finds
43 compelling circumstances that would render a plan of reparation or restitution
44 unworkable. If the court finds compelling circumstances that would render a plan of
45 reparation or restitution unworkable, the court shall enter such findings with particularity
46 on the record. In lieu of reparation or restitution, the court may order the juvenile to
47 perform charitable or social service for organizations performing services for the
48 community; and

49 (2) restitution may include, but shall not be limited to, the amount of damage or loss
50 caused by the juvenile's offense. Restitution may be made by payment of an amount
51 fixed by the court or by working for the parties sustaining loss in the manner ordered by
52 the court. An order of monetary restitution shall be a judgment against the juvenile that
53 may be collected by the court by garnishment or other execution as on judgments in civil
54 cases. Such judgment shall not be affected by the termination of the court's jurisdiction
55 over the juvenile offender.

1 (e) If the court imposes a fine pursuant to subsection (a)(8), the following provisions
2 apply:

3 (1) The amount of the fine may not exceed \$1,000 for each offense. The amount of the
4 fine should be related to the seriousness of the offense and the juvenile's ability to pay.
5 Payment of a fine may be required in a lump sum or installments;

6 (2) in determining whether to impose a fine and the amount to be imposed, the court shall
7 consider that imposition of a fine is most appropriate in cases where the juvenile has
8 derived pecuniary gain from the offense and that imposition of a restitution order is
9 preferable to imposition of a fine; and

10 (3) any fine imposed by court shall be a judgment against the juvenile that may be
11 collected by the court by garnishment or other execution as on judgments in civil cases.
12 Such judgment shall not be affected by the termination of the court's jurisdiction over the
13 juvenile.

14 (f) If the court commits the juvenile to a sanctions house pursuant to subsection (a)(11),
15 the following provisions shall apply:

16 (1) The court may order commitment for up to 28 days for the same offense or violation of
17 sentencing condition. The court shall review the commitment every seven days and, may
18 shorten the initial commitment or, if the initial term is less than 28 days, may extend the
19 commitment;

20 (2) if, in the sentencing order, the court orders a sanctions house placement for a
21 verifiable probation violation and such probation violation occurs, the juvenile may
22 immediately be taken to a sanctions house and detained for no more than 48 hours,
23 excluding Saturdays, Sundays and holidays, prior to court review of the placement. The
24 court and all parties shall be notified of the sanctions house placement; and

25 (3) a juvenile over 18 years of age and less than 23 years of age at sentencing shall be
26 committed to a county jail, in lieu of a sanctions house, under the same time restrictions
27 imposed by paragraph (1), but shall not be committed to or confined in a juvenile
28 detention facility.

29 (g) Any order issued by the judge pursuant to this section shall be in effect immediately
30 upon entry into the court's minutes.

31 (h) In addition to the requirements of K.S.A. 2008 Supp. 38-2373, and amendments
32 thereto, if a person is under 18 years of age and convicted of a felony or adjudicated as a
33 juvenile offender for an offense if committed by an adult would constitute the commission
34 of a felony, the court shall forward a signed copy of the journal entry to the commissioner
35 within 30 days of final disposition.

36 (i) Except as further provided, if a juvenile has been adjudged to be a juvenile offender for
37 an offense that if committed by an adult would constitute the commission of: (1)
38 Aggravated trafficking, as defined in K.S.A. 2008 Supp. 21-3447, and amendments
39 thereto, if the victim is less than 14 years of age; (2) rape, as defined in subsection (a)(2)
40 of K.S.A. 21-3502, and amendments thereto; (3) aggravated indecent liberties with a
41 child, as defined in subsection (a)(3) of K.S.A. 21-3504, and amendments thereto; (4)
42 aggravated criminal sodomy, as defined in subsection (a)(1) or (a)(2) of K.S.A. 21-3506,
43 and amendments thereto; (5) promoting prostitution, as defined in K.S.A. 21-3513, and
44 amendments thereto, if the prostitute is less than 14 years of age; (6) sexual exploitation
45 of a child, as defined in subsection (a)(5) or (a)(6) of K.S.A. 21-3516, and amendments
46 thereto; or (7) an attempt, conspiracy or criminal solicitation, as defined in K.S.A. 21-
47 3301, 21-3302 or 21-3303, and amendments thereto, of an offense defined in parts (1)
48 through (6); the court shall issue an order prohibiting the juvenile from attending the
49 attendance center that the victim of the offense attends. If only one attendance center
50 exists, for which the victim and juvenile are eligible to attend, in the school district where
51 the victim and the juvenile reside, the court shall hear testimony and take evidence from
52 the victim, the juvenile, their families and a representative of the school district as to why
53 the juvenile should or should not be allowed to remain at the attendance center attended
54 by the victim. After such hearing, the court may issue an order prohibiting the juvenile
55 from attending the attendance center that the victim of the offense attends.

1 (j) The sentencing hearing shall be open to the public as provided in K.S.A. 2008 Supp.
2 38-2353, and amendments thereto.

3 **Sec. 21.** K.S.A. 2008 Supp. 60-1610 is hereby amended to read as follows: 60-1610. A
4 decree in an action under this article may include orders on the following matters:

5 (a) *Minor children.* (1) *Child support and education.* The court shall make provisions for
6 the support and education of the minor children. ~~The Subject to the provisions of~~
7 **K.S.A. 23-9,207, and amendments thereto, the** court may modify or change any prior
8 order, including any order issued in a title IV-D case, within three years of the date of the
9 original order or a modification order, when a material change in circumstances is shown,
10 irrespective of the present domicile of the child or the parents. If more than three years
11 has passed since the date of the original order or modification order, a material change in
12 circumstance need not be shown. The court may make a modification of child support
13 retroactive to a date at least one month after the date that the motion to modify was filed
14 with the court. Any increase in support ordered effective prior to the date the court's
15 judgment is filed shall not become a lien on real property pursuant to K.S.A. 60-2202 and
16 amendments thereto. Regardless of the type of custodial arrangement ordered by the
17 court, the court may order the child support and education expenses to be paid by either
18 or both parents for any child less than 18 years of age, at which age the support shall
19 terminate unless: (A) The parent or parents agree, by written agreement approved by the
20 court, to pay support beyond the time the child reaches 18 years of age; (B) the child
21 reaches 18 years of age before completing the child's high school education in which
22 case the support shall not terminate automatically, unless otherwise ordered by the court,
23 until June 30 of the school year during which the child became 18 years of age if the child
24 is still attending high school; or (C) the child is still a bona fide high school student after
25 June 30 of the school year during which the child became 18 years of age, in which case
26 the court, on motion, may order support to continue through the school year during which
27 the child becomes 19 years of age so long as the child is a bona fide high school student
28 and the parents jointly participated or knowingly acquiesced in the decision which
29 delayed the child's completion of high school. The court, in extending support pursuant to
30 subsection (a)(1)(C), may impose such conditions as are appropriate and shall set the
31 child support utilizing the guideline table category for 12-year through 18-year old
32 children. Provision for payment of support and educational expenses of a child after
33 reaching 18 years of age if still attending high school shall apply to any child subject to
34 the jurisdiction of the court, including those whose support was ordered prior to July 1,
35 1992. If an agreement approved by the court prior to July 1, 1992, provides for
36 termination of support before the date provided by subsection (a)(1)(C), the court may
37 review and modify such agreement, and any order based on such agreement, to extend
38 the date for termination of support to the date provided by subsection (a)(1)(C). For
39 purposes of this section, "bona fide high school student" means a student who is enrolled
40 in full accordance with the policy of the accredited high school in which the student is
41 pursuing a high school diploma or a graduate equivalency diploma (GED). In determining
42 the amount to be paid for child support, the court shall consider all relevant factors,
43 without regard to marital misconduct, including the financial resources and needs of both
44 parents, the financial resources and needs of the child and the physical and emotional
45 condition of the child. Until a child reaches 18 years of age, the court may set apart any
46 portion of property of either the husband or wife, or both, that seems necessary and
47 proper for the support of the child. Except for good cause shown, every order requiring
48 payment of child support under this section shall require that the support be paid through
49 the central unit for collection and disbursement of support payments designated pursuant
50 to K.S.A. 23-4,118, and amendments thereto. A written agreement between the parties to
51 make direct child support payments to the obligee and not pay through the central unit
52 shall constitute good cause, unless the court finds the agreement is not in the best
53 interest of the child or children. The obligor shall file such written agreement with the
54 court. The obligor shall maintain written evidence of the payment of the support obligation
55 and, at least annually, shall provide such evidence to the court and the obligee. If the
56 divorce decree of the parties provides for an abatement of child support during any period

1 provided in such decree, the child support such nonresidential parent owes for such
2 period shall abate during such period of time, except that if the residential parent shows
3 that the criteria for the abatement has not been satisfied there shall not be an abatement
4 of such child support.

5 (2) *Child custody and residency. (A) Changes in custody.* Subject to the provisions of the
6 uniform child custody jurisdiction and enforcement act (K.S.A. 38-1336 through 38-1377,
7 and amendments thereto), the court may change or modify any prior order of custody,
8 residency, visitation and parenting time, when a material change of circumstances is
9 shown, but no ex parte order shall have the effect of changing residency of a minor child
10 from the parent who has had the sole de facto residency of the child to the other parent
11 unless there is sworn testimony to support a showing of extraordinary circumstances. If
12 an interlocutory order is issued ex parte, the court shall hear a motion to vacate or modify
13 the order within 15 days of the date that a party requests a hearing whether to vacate or
14 modify the order.

15 (B) *Examination of parties.* The court may order physical or mental examinations of the
16 parties if requested pursuant to K.S.A. 60-235 and amendments thereto.

17 (3) *Child custody or residency criteria.* The court shall determine custody or residency of
18 a child in accordance with the best interests of the child.

19 (A) If the parties have entered into a parenting plan, it shall be presumed that the
20 agreement is in the best interests of the child. This presumption may be overcome and
21 the court may make a different order if the court makes specific findings of fact stating
22 why the agreed parenting plan is not in the best interests of the child.

23 (B) In determining the issue of child custody, residency and parenting time, the court shall
24 consider all relevant factors, including but not limited to:

- 25 (i) The length of time that the child has been under the actual care and control of any
26 person other than a parent and the circumstances relating thereto;
- 27 (ii) the desires of the child's parents as to custody or residency;
- 28 (iii) the desires of the child as to the child's custody or residency;
- 29 (iv) the interaction and interrelationship of the child with parents, siblings and any other
30 person who may significantly affect the child's best interests;
- 31 (v) the child's adjustment to the child's home, school and community;
- 32 (vi) the willingness and ability of each parent to respect and appreciate the bond between
33 the child and the other parent and to allow for a continuing relationship between the child
34 and the other parent;
- 35 (vii) evidence of spousal abuse;
- 36 (viii) whether a parent is subject to the registration requirements of the Kansas offender
37 registration act, K.S.A. 22-4901, et seq., and amendments thereto, or any similar act in
38 any other state, or under military or federal law;
- 39 (ix) whether a parent has been convicted of abuse of a child, K.S.A. 21-3609, and
40 amendments thereto;
- 41 (x) whether a parent is residing with an individual who is subject to registration
42 requirements of the Kansas offender registration act, K.S.A. 22-4901, et seq., and
43 amendments thereto, or any similar act in any other state, or under military or federal law;
44 and
- 45 (xi) whether a parent is residing with an individual who has been convicted of abuse of a
46 child, K.S.A. 21-3609, and amendments thereto.

47 (C) Neither parent shall be considered to have a vested interest in the custody or
48 residency of any child as against the other parent, regardless of the age of the child, and
49 there shall be no presumption that it is in the best interests of any infant or young child to
50 give custody or residency to the mother.

51 (D) There shall be a rebuttable presumption that it is not in the best interest of the child to
52 have custody or residency granted to a parent who:

- 53 (i) Is residing with an individual who is subject to registration requirements of the Kansas
54 offender registration act, K.S.A. 22-4901, et seq., and amendments thereto, or any similar
55 act in any other state, or under military or federal law; or

1 (ii) is residing with an individual who has been convicted of abuse of a child, K.S.A. 21-
2 3609, and amendments thereto.

3 **(E) If a court of competent jurisdiction within this state has entered an order**
4 **pursuant to the revised Kansas code for care of children regarding custody of a**
5 **child or children who are involved in a proceeding filed pursuant to this section,**
6 **and such court has determined pursuant to subsection (i)(2) of K.S.A. 38-2264, and**
7 **amendments thereto, that the orders in that case shall become the custody orders**
8 **in the divorce case, such court shall file a certified copy of the orders with the civil**
9 **case number in the caption and then close the case under the revised Kansas code**
10 **for care of children. Such orders shall be binding on the parties, unless modified**
11 **based on a material change in circumstances, even if such courts have different**
12 **venues.**

13 (4) *Types of legal custodial arrangements.* Subject to the provisions of this article, the
14 court may make any order relating to custodial arrangements which is in the best
15 interests of the child. The order shall provide one of the following legal custody
16 arrangements, in the order of preference:

17 (A) *Joint legal custody.* The court may order the joint legal custody of a child with both
18 parties. In that event, the parties shall have equal rights to make decisions in the best
19 interests of the child.

20 (B) *Sole legal custody.* The court may order the sole legal custody of a child with one of
21 the parties when the court finds that it is not in the best interests of the child that both of
22 the parties have equal rights to make decisions pertaining to the child. If the court does
23 not order joint legal custody, the court shall include on the record specific findings of fact
24 upon which the order for sole legal custody is based. The award of sole legal custody to
25 one parent shall not deprive the other parent of access to information regarding the child
26 unless the court shall so order, stating the reasons for that determination.

27 (5) *Types of residential arrangements.* After making a determination of the legal custodial
28 arrangements, the court shall determine the residency of the child from the following
29 options, which arrangement the court must find to be in the best interest of the child. The
30 parties shall submit to the court either an agreed parenting plan or, in the case of dispute,
31 proposed parenting plans for the court's consideration. Such options are:

32 (A) *Residency.* The court may order a residential arrangement in which the child resides
33 with one or both parents on a basis consistent with the best interests of the child.

34 (B) *Divided residency.* In an exceptional case, the court may order a residential
35 arrangement in which one or more children reside with each parent and have parenting
36 time with the other.

37 (C) *Nonparental residency.* If during the proceedings the court determines that there is
38 probable cause to believe that the child is a child in need of care as defined by
39 subsections (d)(1), (d)(2), (d)(3) or (d)(11) of K.S.A. 2008 Supp. 38-2202, and
40 amendments thereto, or that neither parent is fit to have residency, the court may award
41 temporary residency of the child to a grandparent, aunt, uncle or adult sibling, or, another
42 person or agency if the court finds by written order that: (i) (a) The child is likely to sustain
43 harm if not immediately removed from the home;

44 (b) allowing the child to remain in home is contrary to the welfare of the child; or
45 (c) immediate placement of the child is in the best interest of the child; and

46 (ii) reasonable efforts have been made to maintain the family unit and prevent the
47 unnecessary removal of the child from the child's home or that an emergency exists
48 which threatens the safety to the child. In making such a residency order, the court shall
49 give preference, to the extent that the court finds it is in the best interests of the child, first
50 to awarding such residency to a relative of the child by blood, marriage or adoption and
51 second to awarding such residency to another person with whom the child has close
52 emotional ties. The court may make temporary orders for care, support, education and
53 visitation that it considers appropriate. Temporary residency orders are to be entered in
54 lieu of temporary orders provided for in K.S.A. 2008 Supp. 38-2243 and 38-2244, and
55 amendments thereto, and shall remain in effect until there is a final determination under
56 the revised Kansas code for care of children. An award of temporary residency under this

1 paragraph shall not terminate parental rights nor give the court the authority to consent to
 2 the adoption of the child. When the court enters orders awarding temporary residency of
 3 the child to an agency or a person other than the parent, the court shall refer a transcript
 4 of the proceedings to the county or district attorney. The county or district attorney shall
 5 file a petition as provided in K.S.A. 2008 Supp. 38-2234, and amendments thereto, and
 6 may request termination of parental rights pursuant to K.S.A. 2008 Supp. 38-2266, and
 7 amendments thereto. The costs of the proceedings shall be paid from the general fund of
 8 the county. When a final determination is made that the child is not a child in need of
 9 care, the county or district attorney shall notify the court in writing and the court, after a
 10 hearing, shall enter appropriate custody orders pursuant to this section. If the same judge
 11 presides over both proceedings, the notice is not required. Any ~~disposition order~~
 12 pursuant to the revised Kansas code for care of children shall ~~be binding and shall~~
 13 ~~supersede take precedence over~~ any order under this section.

14 ***(6) Priority. Any custody or parenting time order, or order relating to the best***
 15 ***interests of a child, issued pursuant to the revised Kansas code for care of***
 16 ***children or the revised Kansas juvenile justice code, shall be binding and shall***
 17 ***take precedence over any order under article 16 of chapter 60 of the Kansas***
 18 ***Statutes Annotated, and amendments thereto (divorce), until jurisdiction under the***
 19 ***revised Kansas code for care of children or the revised Kansas juvenile justice***
 20 ***code is terminated.***

21 ***(7) Child health insurance coverage.*** The court may order that each parent execute any
 22 and all documents, including any releases, necessary so that both parents may obtain
 23 information from and to communicate with any health insurance provider regarding the
 24 health insurance coverage provided by such health insurance provider to the child. The
 25 provisions of this paragraph shall apply irrespective of which parent owns, subscribes or
 26 pays for such health insurance coverage.

27 ***(b) Financial matters. (1) Division of property.*** The decree shall divide the real and
 28 personal property of the parties, including any retirement and pension plans, whether
 29 owned by either spouse prior to marriage, acquired by either spouse in the spouse's own
 30 right after marriage or acquired by the spouses' joint efforts, by: (A) A division of the
 31 property in kind; (B) awarding the property or part of the property to one of the spouses
 32 and requiring the other to pay a just and proper sum; or (C) ordering a sale of the
 33 property, under conditions prescribed by the court, and dividing the proceeds of the sale.
 34 Upon request, the trial court shall set a valuation date to be used for all assets at trial,
 35 which may be the date of separation, filing or trial as the facts and circumstances of the
 36 case may dictate. The trial court may consider evidence regarding changes in value of
 37 various assets before and after the valuation date in making the division of property. In
 38 dividing defined-contribution types of retirement and pension plans, the court shall
 39 allocate profits and losses on the nonparticipant's portion until date of distribution to that
 40 nonparticipant. In making the division of property the court shall consider the age of the
 41 parties; the duration of the marriage; the property owned by the parties; their present and
 42 future earning capacities; the time, source and manner of acquisition of property; family
 43 ties and obligations; the allowance of maintenance or lack thereof; dissipation of assets;
 44 the tax consequences of the property division upon the respective economic
 45 circumstances of the parties; and such other factors as the court considers necessary to
 46 make a just and reasonable division of property. The decree shall provide for any
 47 changes in beneficiary designation on: (A) Any insurance or annuity policy that is owned
 48 by the parties, or in the case of group life insurance policies, under which either of the
 49 parties is a covered person; (B) any trust instrument under which one party is the grantor
 50 or holds a power of appointment over part or all of the trust assets, that may be exercised
 51 in favor of either party; or (C) any transfer on death or payable on death account under
 52 which one or both of the parties are owners or beneficiaries. Nothing in this section shall
 53 relieve the parties of the obligation to effectuate any change in beneficiary designation by
 54 the filing of such change with the insurer or issuer in accordance with the terms
 55 of such policy.

1 (2) *Maintenance*. The decree may award to either party an allowance for future support
2 denominated as maintenance, in an amount the court finds to be fair, just and equitable
3 under all of the circumstances. The decree may make the future payments modifiable or
4 terminable under circumstances prescribed in the decree. The court may make a
5 modification of maintenance retroactive to a date at least one month after the date that
6 the motion to modify was filed with the court. In any event, the court may not award
7 maintenance for a period of time in excess of 121 months. If the original court decree
8 reserves the power of the court to hear subsequent motions for reinstatement of
9 maintenance and such a motion is filed prior to the expiration of the stated period of time
10 for maintenance payments, the court shall have jurisdiction to hear a motion by the
11 recipient of the maintenance to reinstate the maintenance payments. Upon motion and
12 hearing, the court may reinstate the payments in whole or in part for a period of time,
13 conditioned upon any modifying or terminating circumstances prescribed by the court, but
14 the reinstatement shall be limited to a period of time not exceeding 121 months. The
15 recipient may file subsequent motions for reinstatement of maintenance prior to the
16 expiration of subsequent periods of time for maintenance payments to be made, but no
17 single period of reinstatement ordered by the court may exceed 121 months.
18 Maintenance may be in a lump sum, in periodic payments, on a percentage of earnings
19 or on any other basis. At any time, on a hearing with reasonable notice to the party
20 affected, the court may modify the amounts or other conditions for the payment of any
21 portion of the maintenance originally awarded that has not already become due, but no
22 modification shall be made without the consent of the party liable for the maintenance, if it
23 has the effect of increasing or accelerating the liability for the unpaid maintenance
24 beyond what was prescribed in the original decree. Except for good cause shown, every
25 order requiring payment of maintenance under this section shall require that the
26 maintenance be paid through the central unit for collection and disbursement of support
27 payments designated pursuant to K.S.A. 23-4,118, and amendments thereto. A written
28 agreement between the parties to make direct maintenance payments to the obligee and
29 not pay through the central unit shall constitute good cause. If child support and
30 maintenance payments are both made to an obligee by the same obligor, and if the court
31 has made a determination concerning the manner of payment of child support, then
32 maintenance payments shall be paid in the same manner.

33 (3) *Separation agreement*. If the parties have entered into a separation agreement which
34 the court finds to be valid, just and equitable, the agreement shall be incorporated in the
35 decree. A separation agreement may include provisions relating to a parenting plan. The
36 provisions of the agreement on all matters settled by it shall be confirmed in the decree
37 except that any provisions relating to the legal custody, residency, visitation parenting
38 time, support or education of the minor children shall be subject to the control of the court
39 in accordance with all other provisions of this article. Matters settled by an agreement
40 incorporated in the decree, other than matters pertaining to the legal custody, residency,
41 visitation, parenting time, support or education of the minor children, shall not be subject
42 to subsequent modification by the court except: (A) As prescribed by the agreement or
43 (B) as subsequently consented to by the parties.

44 (4) *Costs and fees*. Costs and attorney fees may be awarded to either party as justice
45 and equity require. The court may order that the amount be paid directly to the attorney,
46 who may enforce the order in the attorney's name in the same case.

47 (c) *Miscellaneous matters*. (1) *Restoration of name*. Upon the request of a spouse, the
48 court shall order the restoration of that spouse's maiden or former name. The court shall
49 have jurisdiction to restore the spouse's maiden or former name at or after the time the
50 decree of divorce becomes final. The judicial council shall develop a form which is
51 simple, concise and direct for use with this paragraph.

52 (2) *Effective date as to remarriage*. Any marriage contracted by a party, within or outside
53 this state, with any other person before a judgment of divorce becomes final shall be
54 voidable until the decree of divorce becomes final. An agreement which waives the right
55 of appeal from the granting of the divorce and which is incorporated into the decree or

1 signed by the parties and filed in the case shall be effective to shorten the period of time
2 during which the remarriage is voidable.

3 **Sec. 22.** K.S.A. 60-3103 is hereby amended to read as follows: 60-3103. (a) Any district
4 court shall have jurisdiction over all proceedings under the protection from abuse act. The
5 right of a person to obtain relief under the protection from abuse act shall not be affected
6 by the person's leaving the residence or household to avoid further abuse. Any petition
7 under this act seeking orders regarding a custody determination, as defined in K.S.A. 38-
8 1337, and amendments thereto, shall state that information required by K.S.A. 38-1356,
9 and amendments thereto, and the basis under which child-custody jurisdiction is sought
10 to be invoked.

11 ***(b) Any custody or parenting time order, or order relating to the best interests of a***
12 ***child, issued pursuant to the revised Kansas code for care of children or the***
13 ***revised Kansas juvenile justice code, shall be binding and shall take precedence***
14 ***over any order under article 31 of chapter 60 of the Kansas Statutes Annotated,***
15 ***and amendments thereto (protection from abuse act), until jurisdiction under the***
16 ***revised Kansas code for care of children or the revised Kansas juvenile justice***
17 ***code is terminated.***