

**REPORT OF THE JUDICIAL COUNCIL JUVENILE OFFENDER / CHILD IN NEED OF CARE
ADVISORY COMMITTEE ON THE CONSIDERATION OF ATTACHMENT WHEN SELECTING AN
ADOPTIVE RESOURCE FOR A CHILD IN THE CHILD IN NEED OF CARE SYSTEM**

December 2, 2022

In May 2022, Representatives Susan Humphries and Susan Concannon asked the Judicial Council to study the issue of attachment in child placement decisions and adoption proceedings made in child of need of care cases. The Judicial Council referred the study to the JO/CINC Advisory Committee.

COMMITTEE MEMBERSHIP

The members of the Judicial Council JO/CINC Advisory Committee are:

Hon. Patricia Macke Dick, Chair, Hutchinson; Chief District Court Judge in the 27th Judicial District and member of the Judicial Council.

Kristi Allen, Wichita; Assistant Sedgwick County District Attorney.

Kathy L. Armstrong, Shawnee Mission; Assistant General Counsel for Preventive and Protection Services, Kansas Department for Children and Families.

Curtis Brown, Hays; Trego County Attorney.

Caitlyn Eakin, Topeka; State Director of Kansas CASA Association.

Donald W. Hymer, Olathe; Assistant District Attorney in Johnson County.

Hon. Greg Keith, Wichita; District Court Judge in the 18th Judicial District.

Rep. Annie Kuether, Topeka; State Representative from the 55th District.

Rep. Brenda Landwehr, Wichita; State Representative from the 105th District.

Prof. Richard E. Levy, Lawrence; J.B. Smith Distinguished Professor of Constitutional Law at the University of Kansas School of Law.

Rachel Y. Marsh, Lawrence; CEO, Children's Alliance of Kansas.

Libby Snider, Topeka; Attorney, Kansas Department of Corrections.

Amy Raymond, Topeka; Chief of Trial Court Services, Office of Judicial Administration, non-voting member.

EXECUTIVE SUMMARY

The study request asked the Judicial Council to consider how future legislation could require attachment assessments during the adoptive parent selection process and how attachment to non-relative caregivers can be balanced with the federal emphasis on keeping children with relatives. In order to evaluate how a statutory amendment could be crafted to encourage the consideration of caregivers with whom the child is attached when those caregivers wish to be considered as prospective adoptive parents for a child in their care, the Committee did an in-depth study of the current process from the time parental rights are terminated or relinquished to when the adoptive parents are selected.

The Committee concluded that neither federal law nor state policy require the Department for Children and Families (DCF) to select an adoptive parent who is a relative rather than a non-relative caregiver. In each situation, all factors should be evaluated, and a decision made based on the best interest of the individual child. The Committee does not recommend the approach taken in 22 H.B. 2700 because it would cause confusion and add additional hurdles to completing an adoption efficiently without addressing the root of the issue.

The Committee agreed that problems occur: (1) if a foster parent is excluded from consideration in the BIS; and (2) when the Best Interest Staffing (BIS) Team erroneously believes that it must pick the relative as the adoptive parent over a long-term foster parent *solely* due to the relative's status as a relative.

After a thorough discussion of the issues, the Committee agreed to the following:

- Maintaining a child's close and healthy caregiving relationships is important in promoting child's healthy development and should be considered when selecting an adoptive parent.
- A person with whom a child has a close and healthy bond, including a foster parent with whom the child has lived with for an extended period of time, should not be excluded from consideration as a potential adoptive parent.
- All potential adoptive parents should be individually evaluated to determine which adoptive parent is in the best interest of the child.
- The child's bond and attachment with potential adoptive parents should be considered when selecting an adoptive parent.
- The child should not be removed from a caregiver with whom the child has a close and healthy relationship and placed for adoption with another person with whom the child does not have a close and healthy relationship solely because the other person is a relative and the caregiver with whom the child has a close and healthy relationship is not.

The Committee recommends amending K.S.A. 38-2270 to make it clear that the best interest of the child standard applies when DCF selects the adoptive parent for a child, and to create a statutory right for certain foster parents to be considered as prospective adoptive parents in the Best Interest Staffing process. The Committee proposed amendments to K.S.A. 38-2270 begin on page 16.

METHOD OF STUDY

The Committee met four times between September and November 2022. During this study, the Committee reviewed all legislative testimony and hearings related to 2022 H.B. 2700; received information from the DCF; reviewed Kansas statutes and case law, federal law, DCF policies and procedures, legislative reports issued by the 2019 Child Welfare System Task Force and the 2022 Joint Committee on Child Welfare System Oversight; considered research and expert testimony on attachment; and relied on the expertise of its members.

STUDY REQUEST

The study requesters expressed concerned about situations in which DCF decides that a child in the foster care system will be adopted by a relative with whom the child does not have a substantial bond and attachment, and removed from a long-term foster placement with whom the child has a substantial bond and attachment. The study request asked the Judicial Council to consider how future legislation could require attachment assessments during the adoptive parent selection process and how attachment to non-relative caregivers can be balanced with the federal emphasis on keeping children with relatives.

DISCUSSION

Overview of Attachment

Attachment theory is a large and complicated area of study. The Committee members are not experts in attachment theory; however, the Committee reviewed some scholarly literature to inform its discussion of attachment theory and how it plays a role in the selection of adoptive parents for a child in the child in need of care system.

“Attachment is one specific and circumscribed aspect of the relationship between a child and caregiver that is involved with making the child safe, secure and protected. The purpose of attachment is not to play with or entertain the child (this would be the role of the parent as a playmate), feed the child (this would be the role of the parent as a caregiver), set limits for the child (this would be the role of the parent as a disciplinarian) or teach the child new skills (this would be the role of the parent as a teacher). Attachment is where the child uses

the primary caregiver as a secure base from which to explore and, when necessary, as a haven of safety and a source of comfort.”¹

A child’s attachment style is developed during the child’s first 18 months of life. “Once children reach the toddler stage, they begin forming an internal working model of their attachment relationships. This internal working model provides the framework for the child’s beliefs about their own self-worth and how much they can depend on others to meet their needs.”² The attachment style formed during these first few years of childhood lead to what attachment type the child will exhibit later in life in adult relationships.³

There are four categories of a child’s attachment style – secure, anxious-insecure, avoidant-insecure, and disorganized-insecure.⁴ Secure attachment forms when a parent is available, sensitive, responsive, and accepting. “In relationships with secure attachment, parents let their children go out and about but are there for them when they come back for security and comfort.”⁵ Anxious-insecure attachment usually forms when a primary caregiver responds to the child’s needs sporadically. “In anxious-insecure attachment, the child can’t rely on their parents to be there when needed. Because of this, the child fails to develop any feelings of security from the attachment figure.”⁶

Avoidant-insecure attachment typically forms when, instead of comforting the child, “the parent minimizes the child’s feelings, rejects their demands, and does not help with difficult tasks....In addition, the child may be expected to help the parent with their own needs. The child learns that it’s best to avoid bringing the parent into the picture. After all, the parent doesn’t respond in a helpful manner.”⁷ Disorganized-insecure attachment usually forms when parents reject, ridicule, and frighten their child. “When the child approaches the parent, they feel fear and increased anxiety instead of care and protection.”⁸

The category of a person’s attachment style is not the same thing as attachment quality. Attachment quality “refers to variations in children’s expectations about the availability

¹ Diane Benoit, Infant-Parent Attachment: Definition, Types, Antecedents, Measurement and Outcome, 9 Paediatr Child Health 541 (2004).

² Courtney E. Ackerman, MA, What is attachment theory? Bowlby’s 4 stages explained PositivePsychology.com (2018), <https://positivepsychology.com/attachment-theory/#infants-attachment-theory> (last visited Nov 19, 2022); see also J. H. Kennedy & C. E. Kennedy, Attachment theory: Implications for school psychology. 41 Psychology in the Schools, 247-259 (2004).

³ Corinne Rees, Childhood attachment, 57 British Journal of General Practice 920 (2007), <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC2169321/>.

⁴ Rhona Lewis, Types of attachment: Avoidant, anxious, secure, and more Healthline (2020), <https://www.healthline.com/health/parenting/types-of-attachment#secure-attachment> (last visited Nov 19, 2022).

⁵ *Id.*

⁶ *Id.*

⁷ *Id.*

⁸ *Id.*

(accessibility and responsiveness) of their attachment figure in times of need.”⁹ Children usually have multiple attachment relationships but what varies is the attachment quality of each attachment relationship.¹⁰ “[T]he ultimate establishment of a network of attachment relationships is generally a protective factor in the long term and thus a desirable outcome in child development....[The] losses of and permanent separations from attachment figures are in themselves risk factors that should be prevented wherever possible in child development.”¹¹

Federal Law & State Requirements

After review of relevant federal law and state policies, the Committee concluded that neither federal law nor state policy require DCF to select an adoptive parent who is a relative rather than a non-relative.

The Committee identified two federal acts that established federal law regarding relatives. The Child Abuse Prevention and Treatment Act encouraged states to develop and implement procedures to use adult relatives as the preferred placement for children removed from their parents, where such relatives are determined to be capable of providing a safe nurturing environment for the child and where such relatives comply with the state’s child protection standards.¹² The Fostering Connections to Success and Increasing Adoptions Act of 2008 expanded use of federal government funds for children with relative or non-relative kinship placements, promoted placing a child with a relative rather than with a foster family by allowing states to waive nonsafety licensing standards on a case-by-case basis for relative placements, and required states to identify and notify all adult relatives of a child, within 30 days of the child’s removal, of the relatives’ options to become a placement resource for the child.¹³

In 2020, DCF set a goal for all case management providers (CMP) to have 50% of the children in the CMP’s care placed with a relative or kinship care placement, rather than a foster care placement.¹⁴ This 50% goal applies when the child is removed from the child’s home and the parents are working towards reintegration. This 50% goal does not apply to the selection of the child’s adoptive parent(s).

⁹ Tommie Forslund, et al, Attachment Goes to Court: Child Protection and Custody Issues, Attachment & Human Development, 8 (2021).

¹⁰ *Id.*

¹¹ *Id. at 13.*

¹² 42 U.S.C.A. 5106(a)(4).

¹³ See Pub.L. 110–351 (2008), 122 Stat. 3949.

¹⁴ In 2020 the following language was added as amendments to DCF’s Case Management Grantees’ Grants: “Outcome Operational Definitions for Relative Placement is increased to an outcome standard of 50% of children placed with relatives. This is an increase from the previously set standard of 29%, and this new standard is effective July 1, 2020.”

The Committee agreed that federal law and state policy has placed an emphasis on keeping children with their families and the Committee agrees that there are benefits to placing children who are removed from their parents with relatives or non-relative kin (people with close emotional ties). However, it is important to distinguish the policy of placing a child with relatives or non-relative kin early in the child in need of care case while the child’s parents are working towards reintegration with their child, versus the policies governing who will be selected to adopt a child after reintegration has failed and all parental rights have been terminated or relinquished. This study focused on the policies governing the later stage of the child in need of care case, after reintegration has failed, after parental rights have been terminated or relinquished, and when adoptive parents must be chosen.

Even without a federal or state policy mandating the consideration of relatives as adoptive parents, statistics show that about 50% of children adopted from DCF custody are adopted by relatives. In fiscal year 2022, DCF reported that 948 children were adopted out of DCF custody. 48.3% of those children were adopted by a relative. 48.7% were adopted by a foster parent. 3% were adopted by individuals categorized as “other.”¹⁵

2022 H.B. 2700

In the 2022 legislative session, legislators expressed concerned about situations in which DCF decides that a child in the foster care system will be adopted by a relative with whom the child does not have a substantial bond and be removed from a long-term foster placement with whom the child has a substantial bond. 22 H.B. 2700 proposed amending the definition of “kinship care placement” to include a foster placement with whom the child lived for more than six months. It also required the court, when making an order granting custody for adoption proceedings when parental rights have been terminated and where there is more than one prospective family to make a finding that DCF has conducted an individualized assessment of such child’s needs and attachments, and require DCF to conduct such an assessment. For the reasons explained below, the Committee does not recommend the amendments as proposed in 22 H.B. 2700.

Amending the Definition of Kinship Care Placement

The Committee considered 22 H.B. 2700’s proposal to amend the definition of “kinship care placement” to include a long-term foster family placement with whom the child has lived for more than six months.¹⁶ The Committee identified four main reasons it recommends against such an approach.

¹⁵ Kansas Department for Children and Families, Adoptions Finalized by DCF Regions SFY 2022.

¹⁶ 2022 H.B. 2700.

First, such an amendment would blur the lines between kinship care placements and foster family placements. Kinship care providers are people who are specifically tied to a particular child or family. They are not people who sign up and were trained as a foster family provider for children for which they had no prior ties. Kinship care placements have different rules and are eligible for different types of support than foster family placements. For example, a child may be placed in the home of a kinship care placement even if that kinship care provider is not yet licensed by the state of Kansas. After a child is placed with a kinship care placement, the kinship care provider is required to complete a licensing process, but that process is slightly different than the process required for foster families.¹⁷

Second, the proposed statutory amendment failed to clarify whether there were limits to when the more than six-month period must have occurred. If a child lived with several foster families for various lengths of time over many years, any foster family with whom the child lived for more than six months would qualify as a kinship care placement for this child, even if that child had not seen that former foster family for many years or no longer had a relationship with them.

Third, the proposed statutory amendment treated all ages of children the same. An infant who lives with a foster family and is completely dependent on that caregiver for more than six months will likely be extremely bonded to that caregiver, whereas a 14-year-old child who lives with a foster family for more than six months may or may not have any significant bond to that caregiver.

Fourth, living with a foster family for a specific length of time does not automatically mean that the child and the foster family have a healthy attachment quality. A child can be attached to a caregiver, but the relationship with that caregiver could be unhealthy or even damaging to the child. Conversely, a child may form a healthy attachment to a caregiver in less than six months. For these reasons the Committee recommends against changing the definition of kinship care placement.

Requiring Individualized Assessments

Next, the Committee considered the bill's amendments that would require that an individualized assessment of the child's needs and attachments be done. The Committee reviewed DCF's Best Interest Staffing (BIS) process and found that DCF is already conducting individualized assessments of each child.

In a typical CINC case, when the court removes a child from the legal and physical custody of the child's parents, the court places the child in the custody of DCF. DCF then has the

¹⁷ See Kansas Department for Children and Families, Prevention and Protection Services Policy and Procedural Manual, PPM 5235, pg 642 (2022).

authority to decide where the child will physically live (placement), for example, with a relative or a foster family. The court does not specifically direct where the child lives. If a child needs to be moved from one foster family to a different foster family the DCF contracted case management provider (CMP), can physically move the child to a different placement without involving the court.¹⁸ It is DCF's policy that when a child is removed from the child's parents, the goal is to have the child live with a relative¹⁹ or adult with whom the child or child's parent already has close emotional ties, i.e. a kinship care placement.²⁰

If a relative or kinship care placement cannot be found or is not an appropriate option, then the child will be placed with a foster family. Throughout the case, DCF will continue to look for appropriate relative or kinship care placements for the child. This policy aligns with statutory preferences set out in the disposition and custody for adoption statutes,²¹ and is always subject to the best interest of the child.

Later in the case, after reintegration has failed and all parental rights have been terminated or relinquished,²² K.S.A. 38-2700 requires the court to decide whether to give legal custody of the child to DCF or directly to an adoptive parent. Typically, the court chooses to give DCF custody of the child and DCF will identify prospective adoptive parents, choose the adoptive parent, and consent to the adoption. However, the court does have the authority to remove the child from DCF custody, evaluate the child's adoptive options, give custody of the child directly to the court's selected adoptive parent(s), and directly consent to the adoption. For the reasons discussed below, the Committee unanimously agreed that giving custody of the child to DCF should be the preferred option and that giving custody directly to the adoptive parent(s) should only be used when absolutely necessary.

When Custody is Given Directly to an Adoptive Parent

If a child has been in the custody of DCF throughout the CINC case, but the court decides to remove the child from DCF custody and give custody of the child directly to an adoptive parent, the child and the adoptive parent(s) lose important benefits they might have otherwise received from DCF. Examples of benefits that might be lost include automatic healthcare

¹⁸ Pursuant to K.S.A. 38-2258, if a child has been in the same foster home or shelter facility for six months or longer, or has been placed in the home of a parent or relative, the secretary is required to give written notice of any plan to move the child unless the move is to the selected preadoptive family for the purpose of facilitating adoption. Any person required in statute to be provided notice of a move to a different placement may orally or in writing request the court conduct a hearing to determine whether or not the placement change is in the best interest of the child.

¹⁹ "Relative" means a person related by blood, marriage or adoption." K.S.A. 38-2202(cc).

²⁰ "Kinship care placement" means the placement of a child in the home of an adult with whom the child or the child's parent already has close emotional ties." K.S.A. 38-2202(q).

²¹ K.S.A. 38-2270 and 38-5555.

²² See K.S.A. 38-2268.

coverage for the child through KanCare, an adoption subsidy, post-secondary education benefits for the child, and DCF's payment of legal fees and certain non-recurring costs associated with the adoption.

If the court chooses to give custody of the child directly to a proposed adoptive parent, the statute requires the court, "to the extent that the court finds it is in the best interest of the child," to give preference first to a relative of the child, and second to a person with whom the child has close emotional ties.²³ This preference for a relative or someone with close emotional ties *only* applies when the court is giving legal and physical custody of the child directly to the adoptive parent(s). This statute does not create a rebuttable presumption in favor of placing the child in the custody of a relative rather than DCF.²⁴

Standard for When the Court Choses Adoptive Parent(s)

If the court needs to give custody directly to a proposed adoptive parent, the court must decide who the adoptive parent(s) will be based on the best interest of the child.²⁵ The court cannot choose a child's relative as the adoptive parents over people with whom the child had close emotional ties (such as child's foster family) *solely* based on the fact that one set of proposed adoptive parents are relatives.²⁶ The court must evaluate the whole situation and conduct an analysis of what would be in the best interest of the child.²⁷ The court's consideration of the child's best interest, must include, but is not limited to, the following factors:

- “1. The child's attachment to the parties;
2. whether there has been any history of sexual, physical, emotional, or substance abuse on the part of any family member;
3. age and health of the parties;
4. whether the child would have siblings close to his age;
5. motivation of the parties for wanting to adopt;
6. potential permanence of the relationship between the child and adopting parents;
7. emotional needs of the child;

²³ K.S.A. 38-2270(b).

²⁴ *In re G.M.A.*, 30 Kan. App. 2d 587, 593, 43 P. 3d 881, 886 (2002) (holding based on the language of K.S.A. 2002 Supp. 38-1584(b)(4) which has since been repealed, but the relevant statutory language remains the same and was recodified in K.S.A. 38-2270(b)).

²⁵ K.S.A. 38-2270(b).

²⁶ *In re J.A.*, 30 Kan. App. 2d, 242, 42 P. 3d 215, 220 (2002).

²⁷ K.S.A. 2002 Supp. 38-1584(b)(4) has since been repealed; however, the relevant statutory language remains the same and was recodified in K.S.A. 38-2270(b).

8. parenting skills, strengths, and weaknesses; and
9. special needs of the child.”²⁸

The requirement for the court to first consider a relative or person with close emotional ties, and the list of best interest factors in case law only apply when the court is deciding who will adopt the child, directly giving the adoptive parent(s) custody of the child, and directly consenting to the adoption.

The Committee agreed that removing a child from the custody of DCF and giving custody to the adoptive parent directly should be the last resort. If the court gives custody to DCF, the child and the adoptive parent(s) do not lose the benefits and support DCF provides for children adopted from the child in need of care system. Directly placing a child in the custody of an adoptive parent also increases the likelihood of the case being appealed to the Kansas appellate courts. Though the appellate courts expedite CINC cases, it can still take years before a final decision is reached. Such a delay causes harm to the child by postponing permanency and is usually emotionally devastating to all people involved.

When the Court Gives Custody to DCF

In the vast majority of CINC cases, after parental rights are terminated or relinquished, the court gives custody of the child to DCF and the CMP takes the case through the adoption process. The CMP works to identify prospective adoptive parents for the child. The CMP might identify one or multiple prospective adoptive parents. Each potential adoptive parent completes a packet of documents, including the Adoptive Family Assessment.²⁹ After all identified prospective adoptive parents complete the packet, the CMP schedules and holds a Best Interest Staffing (BIS) to review the information about the child and each prospective adoptive parent, and ultimately, select who will adopt the child.³⁰

At the Committee’s request, DCF provided the Committee with unofficial statistics regarding the number of best BIS’s held and whether the BIS’s involved one or multiple prospective adoptive parent (or set of parents). In fiscal year 2022, DCF estimated that 303 BIS’s

²⁸ *In re J.A.*, 30 Kan. App. 2d, 245-246, 42 P. 3d 215, 221 (2002). See also *In re M.R.*, 36 Kan. App. 2d 837, 843, 146 P. 3d 229, 234 (2006) (citing the best interest factors listed in *In re J.A.* and agreeing that the preference for a relative or person with close emotional ties to the child are subject to whether such a preference is in the best interest of the child).

²⁹ See Kansas Department for Children and Families, Prevention and Protection Services Policy and Procedural Manual, PPM 5330, pg 684 (2022).

³⁰ In some cases, the BIS process is waived. The BIS may be waived if all the following conditions are met: (1) the child is legally free for adoption; (2) there is one potential identified adoptive resource who is a relative, non-related kin or foster family; (3) if the child is not placed with a relative, concerted efforts to identify, locate and evaluate maternal and paternal relatives as adoptive resources and life-long connections are documented; and (4) the child has been placed with the one identified resource for a minimum of 6 consecutive months with no disruptions. *Id.* at PPM 5340, pg 692.

were held. 247 of the BIS's involved one prospective adoptive parent (or set of parents). 64 of the BIS's involved multiple prospective adoptive parents. About 400 BIS's were waived.

If someone (such as a foster family) wants to be considered as an adoptive parent, but the CMP excludes the prospective adoptive parent from being considered in the BIS, the excluded prospective adoptive parent could directly ask the court for custody to be removed from DCF and given to them.³¹ Such a process is burdensome and often requires the excluded prospective adoptive parent(s) to hire an attorney. Additionally, if the court removes the child from DCF custody and gives it directly to the petitioning individual, the child and the now adoptive parent(s) lose the DCF benefits to which they would have otherwise been entitled.³² The Committee agreed it is important that all prospective adoptive parents be given the opportunity to be considered during the BIS.

The BIS process is structured to include many important people in the child's life and provide detailed assessments of the child and the prospective adoptive parents. The BIS may include a variety of persons including, but not limited to, the child, if he or she is age 14 or older; the child's guardian *ad litem* (GAL); the child's current and former Case Manager/Support Worker; DCF Foster Care Liaison; Court Appointed Special Advocate (CASA), if applicable; assigned supervisors; the child's therapist; a teacher or other adult (coach, scout leader, youth pastor etc.); current placement, unless there is a conflict of interest, e.g. they are one of the families being considered; Indian Child Welfare Act (ICWA) tribal representative for the affiliated tribe, if applicable; the worker for each family being considered; and others as deemed appropriate.³³

All participants who are in attendance for the entire BIS are members of the "BIS Team" and are allowed to weigh in and provide recommendations as to the most appropriate adoptive parent(s). The BIS meeting includes presentations on the child and information on each prospective adoptive parent, including information on strengths, limitations, and needs.

The DCF Policies and Procedure Manual states:

"All factors shall be considered in identifying which family(ies) can best meet the needs of the child. The BIS team shall consider and document each family's ability to:

- i. meet the needs and temperament of the child currently and over time;

³¹ In order to have standing to file this request with the court, the person must have interested party status pursuant to K.S.A. 38-2241.

³² Examples of DCF benefits include access to KanCare medical coverage, post-secondary education benefits, cash subsidy, and the payment of legal fees to finalize the adoption.

³³ Kansas Department for Children and Families, Prevention and Protection Services Policy and Procedural Manual, PPM 5339, pg 689 (2022).

- ii. understand the current and future impact on their family of adopting this child;
- iii. recognize and advocate for the needs/interests of the child;
- iv. understand and support the child through loss and grieving issues;
- v. recognize adoption is a life-long commitment with many unknown challenges;
- vi. provide the child with a safe and secure environment;
- vii. provide unconditional love and acceptance of the child;
- viii. accept and incorporate the child's emotional, physical, social, educational, and developmental needs into the family;
- ix. demonstrate application of knowledge of the effects of deprivation, abuse and neglect on a child and the potential impact on the child's behavior;
- x. encourage the child(ren) to develop at his/her own rate to reach his/her maximum potential;
- xi. accept and support the child's background, culture, ethnicity, heritage, race, medical and mental health needs, and genetic and social history;
- xii. help the child to learn and accept his/her background;
- xiii. understand the importance of planning and facilitating child/children's future contact with siblings and/or other family members as deemed appropriate;
- xiv. manage their financial resources.”³⁴

The prospective adoptive parent is chosen by a consensus of the BIS Team. If a consensus decision is not made within three working days of the original BIS date, then the CMP will make the final decision within 24 hours based on what is in the best interest of the child.³⁵

If an adoptive parent is not selected by the BIS Team, within five days of the notification of non-selection, the prospective adoptive parent may, in writing, request review of the decision. When the CMP receives a request for review of the decision, within one working day, the request is submitted to a designated independent reviewer with the CMP organization. The purpose of the review is to identify the presence of policy error or omission during the BIS process or identify bias which unduly influenced the BIS decision. The review must be completed within five working days of receiving the request. If the reviewer determines policy was not followed or bias unduly influenced the outcome, the reviewer shall reconvene and facilitate another BIS.³⁶

³⁴ *Id.* at PPM 5339, pg 690.

³⁵ *Id.* at PPM 5339, pg 691.

³⁶ *Id.* at PPM 5341, pg 693.

After the adoptive parent is chosen, the adoption of the child proceeds pursuant to the Kansas Adoption and Relinquishment Act. When the adoption is finalized, a copy of the final adoption decree is filed in the CINC case and the CINC case closes.³⁷

The BIS process is governed by DCF and CMP policies and procedures, not directly by the CINC statutes. The CINC statutes control when and to whom the court may grant custody of a child for the purposes of adoption,³⁸ but if the court gives custody of the child to DCF, then DCF and CMP policies and procedures control the process to select who will be a child's adoptive parent(s). In the vast majority of cases, allowing DCF and the CMP to decide who will adopt the child through the BIS process, without direct intervention from the court, enables the process to proceed more quickly and efficiently. It also helps avoid unnecessary custody battles. However, the Committee recognized that for a small number of cases, the BIS process excludes potential adoptive parents from consideration and may result in decisions that are arguably not in the best interest of an individual child.

The Committee agreed that problems occur: (1) if a foster parent is excluded from consideration in the BIS; and (2) when the BIS Team erroneously believes that it must pick the relative as the adoptive parent over a long-term foster parent *solely* due to the relative's status as a relative.

The Committee considered many options for how the CINC code might be amended to facilitate practices in line with the Committee's statements set on in the Executive Summary on page 2 of this report. The Committee agreed that any CINC statute cannot be too narrowly written. The CINC statutes are intentionally broad because each CINC case is unique. If the CINC statutes were too narrowly written, it would hamper the CINC system's ability to meet the needs of each individual child. The Committee also agreed that it is important that any statutory changes are narrowly tailored to affect the process or timing of adoptions in only the small number of cases at issue. Any statutory amendment should avoid slowing down adoption timelines for the vast majority of cases where there is only one prospective adoptive parent (or set of parents).

Based on the Committee's discussion, the Committee recommends amending K.S.A. 38-2270 begin on page 16.

³⁷ K.S.A. 38-2270(c).

³⁸ K.S.A. 38-2270.

Explanation of recommended amendments to K.S.A. 38-2270

Subsection (a)

The Committee recommends specifying in subsection (a)(1) that when DCF decides who will adopt the child, that the decision shall be guided by the best interest of the child. This standard is currently assumed, but this amendment would make it clearly applicable to DCF's selection of the adoptive parent for a child.

To increase clarity and reduce confusion the Committee recommends moving the current language in subsection (b) into subsection (a)(2), as well as affirmatively stating that when the court grants custody of the child directly to the proposed adoptive parent, the court is revoking any prior custody order, including a prior order for the child to be in the custody of DCF.

Subsection (b)

The Committee recommends the new subsection (b) state that, subject to the best interest of the child, DCF shall consider maintaining the child's close and healthy attachments and that DCF must consider a foster parent as a prospective adoptive parent if one of three conditions applies. First, if the child has lived with the foster parent for more than half of the child's lifetime and the foster parent is interested in being considered. Second, if the child has lived more than two years with a foster parent and the foster parent is interested in being considered. And third, the foster parent can be considered if DCF determines it is in the best interest of the child, regardless of how long the child has lived with the foster parent. These three conditions overlap, but any one of them would be sufficient to require consideration of a foster parent as a prospective adoptive parent.

The Committee drafted subsection (b)(1) to address situations that involve very young children. A child's attachments and bonds with caregivers during a child's early years are critical to the child's development. The Committee recognized that removing a two-year-old from a family with whom the child has lived for over 1 year might have lasting negative impacts on the child's development. The Committee recommends the standard of "half the child's lifetime" rather than only having the two-year standard because young children quickly attach to a caregiver and the long-term separation from that caregiver can have a greater negative impact on that child's development than if the child was switching caregivers later in life.

The Committee thought it was also appropriate to require consideration of a foster parent as a prospective adoptive placement whenever the child has lived with the foster parent for at least two years, which is reflected in subsection (b)(2). For children under age 4, a shorter period would be sufficient to trigger subsection (b)(1), so this 2-year timeframe would only be triggered when children are older.

These timeframes were not meant to exclude consideration of a foster parent as a proposed adoptive parent when a child has lived with the foster parent for less than half the child's life or for two years. Those prospective adoptive parents could still be considered, they just would not have a statutory right to be considered.

For purposes of these provisions, if a sibling group has been placed with a foster parent and one child qualifies that foster parent for consideration, the Committee anticipates that the foster parent will be considered as an adoptive resource for the entire sibling group.

Clean Up Amendments

If the legislature amends K.S.A. 38-2270, the Committee also recommends some clean up amendments to help clarify and reduce confusion. In subsection (a)(1), the Committee recommends removing the reference to "person." The term "person" was needed prior to the 2006 rewriting of the CINC code, but since that revision it is no longer necessary.³⁹

The Committee also agreed subsection (c) should be clarified to describe more accurately what happens when a copy of the adoption decree is filed in the CINC case. If the child was adopted out of the custody of DCF, when a copy of the adoption decree is filed in the CINC case, DCF's custody and the court's jurisdiction over the child ceases. If the court placed the child directly in the custody of the prospective adoptive parent and directly consented to the adoption, DCF's custody has already been terminated, so when a copy of the adoption decree is filed in the CINC case, it is only terminating the court's jurisdiction over the child.

CONCLUSION

The Committee recommends amending K.S.A. 38-2270 to make it clear that the best interest of the child standard applies when DCF selects the adoptive parent for a child, and to create a statutory right for certain foster parents to be considered as prospective adoptive parents in the Best Interest Staffing process.

³⁹ See K.S.A. 2005 Supp. 38-1584; and 2006 Kan. Session Laws, Ch. 200.

Recommended Statutory Amendments

K.S.A. 38-2270 (2022). Custody for adoption.

(a) When parental rights have been terminated and it appears that adoption is a viable alternative, the court shall enter one of the following orders:

(1) An order granting custody of the child, for adoption proceedings, to the secretary or a corporation organized under the laws of the state of Kansas authorized to care for and surrender children for adoption as provided in K.S.A. 38-112 et seq., and amendments thereto. The ~~person~~, secretary or corporation shall have authority to place the child in a family home, and give consent for the legal adoption of the child which shall be the only consent required to authorize the entry of an order or decree of adoption. When deciding who will adopt the child, the secretary or corporation shall be guided by the best interest of the child.

(2) An order granting custody of the child to proposed adoptive parents and consenting to the adoption of the child by the proposed adoptive parents. The court shall give preference, to the extent that the court finds it is in the best interests of the child, first to granting such custody for adoption to a relative of the child and second to granting such custody to a person with whom the child has close emotional ties. Any prior custody order, including but not limited to the custody of the secretary or corporation, shall cease upon the court granting custody of the child to the proposed adoptive parents under this subsection.

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

When a child is placed in the custody of the secretary for purposes of adoption under subsection (a)(1), subject to the best interest of the child, the secretary shall consider maintaining the child's close and healthy attachments. In particular, the secretary shall consider the foster parent as a prospective adoptive parent when:

(1) the child has lived more than half of the child's lifetime with a foster parent interested in adopting the child;

(2) the child has lived more than two years with a foster parent interested in adopting the child; or

(3) the secretary otherwise determines it is in the best interest of the child.

(c) When a copy of the adoption decree has been filed with the court in the child in need of care case;

(1) in cases in which the court entered an order under subsection (a)(1), the secretary's custody shall cease, the court's jurisdiction over the child shall cease and the court shall enter an order to that effect; and

(2) in cases in which the court entered an order under subsection (a)(2), the court's jurisdiction over the child shall cease and the court shall enter an order to that effect.

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Susan Concannon
Representative, 107th District

May 27, 2022

Nancy Strouse, Executive Director
Kansas Judicial Council
301 SW 10th Avenue
Topeka, Kansas 66612

Dear Nancy:

We are writing to request Judicial Council study of the issue of attachment in child placement decisions and adoption proceedings. We believe an in-depth study of attachment by the Judicial Council would be appropriate and helpful as the Legislature considers taking action on the subject.

The Legislature has considered the issue of attachment in the past several years. In 2020, the Special Committee on Foster Care Oversight discussed how courts and the Department for Children and Families account for attachment when considering the best interests of the child (BIOC) in cases involving reintegration, adoption, and similar circumstances. The Committee requested the Kansas Legislative Research Department (KLRD) investigate the science of attachment in early childhood development and how courts in Kansas in other states currently consider it. Additionally, in its report to the 2022 Legislature, the Joint Committee on Child Welfare System Oversight recommended the Legislature strengthen the consideration of attachment for permanency placement of children by adjusting statutes to consider attachment science.

During the 2022 Session, the House Committee on Children and Seniors introduced HB 2700 at Representative Humphries' request. The bill, attached to this letter, would have required the court, when making an order granting custody for adoption proceedings when parental rights have been terminated and where there is more than one prospective family, to make a finding that the Secretary for Children and Families has conducted an individualized assessment of such child's needs and attachments and required the Secretary to make such assessment. Before recommending the bill favorably for passage, the House Committee amended the definition of "kinship care placement" to include a foster placement with whom the child lived for more than six months. The amendment reflects our opinion that children can develop strong attachments to adults other than family members.

If the Judicial Council agrees to this study, we request it specifically consider how to reconcile potential attachment legislation in Kansas with recent federal law. In 2018, President Trump signed the Family First Prevention Services Act, which shifted the focus of the national

child welfare system toward keeping children safely with their families through increased access to mental health services, substance use treatment, and parenting resources. Scientific research shows forming secure attachments to a surrogate caretaker is highly valuable for a child's development. We want to find a solution that balances the new federal emphasis on family with considerations of attachment.

According to research conducted by KLRD, 22 states list specific factors in their statutes for courts to consider in making BIOC determinations. We believe it would be desirable and productive for the Judicial Council to study the legal issues surrounding attachment considerations, what those requirements look like in other states, and how future legislation in Kansas could most effectively require attachment assessments. If the Judicial Council agrees to this request, we hope a study could be completed prior to the start of the 2023 regular Legislative Session.

Please let us know if we can provide further information or answer any questions regarding this request.

Sincerely,



Representative Susan Humphries
Chair, House Committee on Higher
Education Budget
District 99



Representative Susan Concannon
Chair, House Committee on Children and
Seniors
District 107

cc: Representative Jarrod Ousley
Representative Charlotte Esau
Senator Richard Hilderbrand

HOUSE BILL No. 2700

By Committee on Children and Seniors

2-11

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

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

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

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

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

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

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

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

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

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

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

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

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

1 **3120, and amendments thereto;**

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

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

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

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

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

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

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

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

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

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

1 thereto, guardians and conservators.

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

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

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

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

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

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

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

30 (n) "Jail" means:

31 (1) An adult jail or lockup; or

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

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

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

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

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

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

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

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

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

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

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

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

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

1 **Indian child welfare act.**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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