

HOUSE BILL No. 2481

By Committee on Judiciary

1-17

1 AN ACT concerning family law; relating to the Kansas adoption and
2 relinquishment act; amending K.S.A. 59-2112, 59-2113, 59-2114, 59-
3 2116, 59-2117, 59-2120, 59-2121, 59-2124, 59-2126, 59-2127, 59-
4 2128, 59-2134, 59-2138, 59-2141 and 59-2143 and K.S.A. 2017 Supp.
5 59-2122, 59-2123, 59-2130, 59-2132, 59-2133 and 59-2136 and
6 repealing the existing sections.

7
8 *Be it enacted by the Legislature of the State of Kansas:*

9 Section 1. K.S.A. 59-2112 is hereby amended to read as follows: 59-
10 2112. As used in K.S.A. 59-2111 through 59-2143, *and amendments*
11 *thereto:*

12 (a) "Adult adoption" means the adoption of an individual who has
13 attained the age of majority;

14 (b) "agency adoption" means the adoption of a minor child where an
15 agency has the authority to consent to the adoption;

16 (c) "independent adoption" means the adoption of a minor child
17 where the child's parent or parents, legal guardian or nonagency person in
18 loco parentis has the authority to consent to the adoption; but does not
19 include a stepparent adoption;

20 (d) "stepparent adoption" means the adoption of a minor child by the
21 spouse of a parent with the consent of that parent;

22 (e) "residence of a child" and "place where a child resides" means:

23 ~~(1) The residence of the child's mother if the child's parents are not~~
24 ~~married;~~

25 ~~(2) the residence of the child's father, if the father has custody and the~~
26 ~~child's parents are not married;~~

27 ~~(3) the residence of the child's father if the child's parents are married;~~

28 ~~or~~

29 ~~(4) the residence of the child's mother if the child's parents are~~
30 ~~married, but the child's mother has established a separate, legal residence~~
31 ~~and the child resides with the mother *the residence of any parent;*~~

32 (f) "agency" means any public or private entity organized pursuant to
33 Kansas law, or organized pursuant to the laws of the jurisdiction where
34 located, having for its purpose the care and maintenance of children, being
35 authorized to place children for adoption, consent to the adoption and to
36 stand in loco parentis to such children until they are adopted or reach

1 majority;~~and~~

2 (g) "person in loco parentis" means an individual or organization
3 vested with the right to consent to the adoption of a child pursuant to
4 relinquishment or an order or judgment by a district court of competent
5 jurisdiction;

6 (h) "party in interest" means:

7 (1) *A parent whose parental rights have not been terminated;*

8 (2) *a prospective adoptive parent;*

9 (3) *an adoptive parent;*

10 (4) *a legal guardian of a child;*

11 (5) *an agency having authority to consent to the adoption of a child;*

12 (6) *the child sought to be adopted, if over 14 years of age and of*
13 *sound intellect; or*

14 (7) *an adult adoptee; and*

15 (i) "professional" means any person who receives payment or
16 compensation, but not solely reimbursement for expenses, for providing
17 services related to the placement of children for adoption.

18 Sec. 2. K.S.A. 59-2113 is hereby amended to read as follows: 59-
19 2113. Any adult, or ~~husband and wife~~ *married adult couple* jointly, may
20 adopt any minor or adult as their child in the manner provided in K.S.A.
21 59-2111 through 59-2143, *and amendments thereto*, except that one spouse
22 cannot do so without the consent of the other.

23 Sec. 3. K.S.A. 59-2114 is hereby amended to read as follows: 59-
24 2114. (a) Consent shall be in writing and shall be acknowledged before a
25 judge of a court of record or before an officer authorized by law to take
26 acknowledgments. If consent is acknowledged before a judge of a court of
27 record, it shall be the duty of the court to ~~advise~~ *inform* the consenting
28 person of the *legal* consequences of the consent. A consent is final when
29 executed, unless the consenting party, prior to final decree of adoption,
30 alleges and proves by clear and convincing evidence that the consent was
31 not freely and voluntarily given. The burden of proving the consent was
32 not freely and voluntarily given shall rest with the consenting party.

33 (b) Consent in all cases shall have been executed not more than six
34 months prior to the date the petition for adoption is filed.

35 Sec. 4. K.S.A. 59-2116 is hereby amended to read as follows: 59-
36 2116. (a) A consent or relinquishment may not be given by the mother or
37 accepted until 12 hours after the birth of a child. Any consent or
38 relinquishment given by the mother before 12 hours after the birth of a
39 child is voidable, prior to the final decree of adoption.

40 (b) *A consent or relinquishment may be given by any father or*
41 *possible father any time after the birth of a child. A consent may be given*
42 *by any father or possible father before the birth of the child only if he has*
43 *the advice of independent legal counsel as to the consequences of the*

1 consent prior to its execution. The attorney providing independent legal
2 advice shall be present at the execution of the consent.

3 Sec. 5. K.S.A. 59-2117 is hereby amended to read as follows: 59-
4 2117. (a) A consent or relinquishment, *or document that is the functional*
5 *equivalent of a Kansas consent or relinquishment, is valid if* executed and
6 acknowledged outside of this state; *or in a foreign country* either in
7 accordance with the law of this state or in accordance with the law of the
8 place where executed, ~~is valid.~~

9 ~~(b) Where a consent or relinquishment is signed in a foreign country,~~
10 ~~the execution of the consent or relinquishment shall be acknowledged or~~
11 ~~affirmed in accordance with the law and procedure of the foreign country.~~

12 ~~(e)(b)~~ If the person signing a consent or relinquishment is in the
13 military service of the United States, the execution of the consent or
14 relinquishment may be acknowledged before a commissioned officer and
15 the signature of the officer shall be verified or acknowledged before a
16 notary public or by such other procedure as is then in effect for such
17 division or branch of the armed forces.

18 Sec. 6. K.S.A. 59-2120 is hereby amended to read as follows: 59-
19 2120. Interstate placements of children shall comply with the procedures
20 contained in the interstate compact on placement of children as set forth in
21 K.S.A. 38-1202, and amendments thereto. Any professional providing
22 services related to the placement of children for adoption who fails to
23 comply with the provisions of the interstate compact for the placement of
24 children is guilty of a class C *nonperson* misdemeanor. ~~For the purposes of~~
25 ~~this section, "professional" means any person who receives payment or~~
26 ~~compensation for providing services related to the placement of children~~
27 ~~for adoption.~~

28 Sec. 7. K.S.A. 59-2121 is hereby amended to read as follows: 59-
29 2121. (a) Except as otherwise authorized by law, no person shall request,
30 receive, give or offer to give any consideration in connection with an
31 adoption, or a placement for adoption, other than:

32 (1) Reasonable fees for legal and other professional services rendered
33 in connection with the placement or adoption not to exceed customary fees
34 for similar services by professionals of equivalent experience and
35 reputation where the services are performed; ~~except that fees for legal and~~
36 ~~other professional services as provided in this section performed outside~~
37 ~~the state shall not exceed customary fees for similar services when~~
38 ~~performed in the state of Kansas;~~

39 (2) reasonable fees ~~in the state of Kansas~~ of a licensed child-placing
40 agency;

41 (3) actual and necessary expenses, ~~based on expenses in the state of~~
42 ~~Kansas;~~ incident to placement or to the adoption proceeding;

43 (4) actual medical expenses of the mother attributable to pregnancy

1 and birth;

2 (5) actual medical expenses of the child; and

3 (6) reasonable living expenses of the mother which are incurred
4 during or as a result of the pregnancy.

5 (b) In an action for adoption, a detailed accounting of all
6 consideration given, or to be given, and all disbursements made, or to be
7 made, in connection with the adoption and the placement for adoption
8 shall accompany the petition for adoption. Upon review of the accounting,
9 the court shall disapprove any such consideration which the court
10 determines to be unreasonable or in violation of this section and, to the
11 extent necessary to comply with the provisions of this section, shall order
12 reimbursement of any consideration already given in violation of this
13 section.

14 (c) Knowingly and intentionally receiving or accepting clearly
15 excessive fees or expenses in violation of subsection (a) shall be a severity
16 level 9, nonperson felony. Knowingly failing to list all consideration or
17 disbursements as required by subsection (b) shall be a class B nonperson
18 misdemeanor.

19 Sec. 8. K.S.A. 2017 Supp. 59-2122 is hereby amended to read as
20 follows: 59-2122. (a) *Except as provided in subsections (b) and (c), the*
21 *files and records of the court in adoption proceedings shall not be open to*
22 *inspection or copy by persons other than the following:*

23 (1) ~~The parties in interest and their attorneys, party filing for~~
24 ~~adoption or termination and that party's attorney;~~

25 (2) *an adoptee who has reached the age of majority;*

26 (3) ~~representatives of the Kansas department for children and~~
27 ~~families, and the commission on judicial performance in the discharge of~~
28 ~~the commission's duties pursuant to article 32 of chapter 20 of the Kansas~~
29 ~~Statutes Annotated, and amendments thereto, except upon an order of the~~
30 ~~court expressly permitting the same. As used in this section, "parties in~~
31 ~~interest" shall not include genetic parents once a decree of adoption is~~
32 ~~entered;~~

33 (4) *the disciplinary administrator; and*

34 (5) *the commission on judicial qualifications.*

35 (b) *Prior to the final decree of adoption, any party in interest may*
36 *request access to the files and records of an adoption proceeding. After*
37 *notice and a hearing, and upon a written finding of good cause, the court*
38 *may order that some or all of the files and records of an adoption*
39 *proceeding be open to inspection or copy by the moving party.*

40 (c) *After the final decree of adoption, the court may permit access to*
41 *some or all of the files and records of an adoption proceeding for good*
42 *cause shown.*

43 (d) The Kansas department for children and families may contact the

1 adoptive parents of the minor child or the adopted adult at the request of
2 the *birth or* genetic parents in the event of a health or medical need. The
3 Kansas department for children and families may contact the adopted adult
4 at the request of the *birth or* genetic parents for any reason. Identifying
5 information shall not be shared with the *birth or* genetic parents without
6 the permission of the adoptive parents of the minor child~~or~~, the adopted
7 adult *or the legal guardian of the adopted adult*. The Kansas department
8 for children and families may contact the *birth or* genetic parents at the
9 request of the adoptive parents of the minor child~~or~~, the adopted adult *or*
10 *the legal guardian of the adopted adult* in the event of a health or medical
11 need. The Kansas department for children and families may contact the
12 *birth or* genetic parents at the request of the adopted adult for any reason.

13 Sec. 9. K.S.A. 2017 Supp. 59-2123 is hereby amended to read as
14 follows: 59-2123. (a) Except as otherwise provided in this section:

15 (1) Any person who advertises that such person will *provide*
16 *adoption-related services or* adopt, find an adoptive home for a child or
17 otherwise place a child for adoption shall state in such advertisement
18 whether or not such person is licensed and if licensed, under what
19 authority such license is issued and in what profession;

20 (2) no person shall offer to adopt, find a home for or otherwise place
21 a child as an inducement to a woman to come to such person's maternity
22 center during pregnancy or after delivery; and

23 (3) no person shall offer to adopt, find a home for or otherwise place
24 a child as an inducement to any parent, guardian or custodian of a child to
25 place such child in such person's home, institution or establishment.

26 (b) The provisions of subsection (a)(1) shall not apply to the Kansas
27 department for children and families or to an individual seeking to adopt a
28 child. *The provisions of subsection (a)(3) shall not apply to the Kansas*
29 *department for children and families, an individual seeking to adopt a*
30 *child, an agency or an attorney.*

31 (c) As used in this section:

32 (1) "Advertise" means to communicate by newspaper, radio,
33 television, handbills, placards or other print, broadcast, telephone directory
34 or electronic medium.

35 (2) "Person" means an individual, firm, partnership, corporation, joint
36 venture or other association or entity.

37 (3) "Maternity center" means the same as provided in K.S.A. ~~65-502~~
38 *65-503*, and amendments thereto.

39 (d) Any person who violates the provisions of this section shall be
40 guilty of an unclassified misdemeanor and shall be fined not more than
41 \$1,000 for each violation.

42 Sec. 10. K.S.A. 59-2124 is hereby amended to read as follows: 59-
43 2124. (a) Any parent or parents or person in loco parentis may relinquish a

1 child to an agency, and if the agency accepts the relinquishment in writing,
2 the agency shall stand in loco parentis to the child and shall have and
3 possess over the child all rights of a parent or legal guardian, including the
4 power to place the child for adoption and give consent thereto.

5 (b) All relinquishments to an agency under K.S.A. 59-2111 through
6 59-2143, and amendments thereto, shall be deemed sufficient if in
7 substantial compliance with the form for relinquishment set forth by the
8 judicial council, and shall be executed by: (1) Both parents of the child; (2)
9 one parent, if the other parent is deceased or the other parent's
10 relinquishment is found unnecessary under K.S.A. 59-2136, and
11 amendments thereto; or (3) a person in loco parentis.

12 (c) The relinquishment shall be in writing and shall be acknowledged
13 before a judge of a court of record or before an officer authorized by law
14 to take acknowledgments. If the relinquishment is acknowledged before a
15 judge of a court of record, it shall be the duty of the court to ~~advise~~ *inform*
16 the relinquishing person of the *legal* consequences of the relinquishment.

17 (d) *A relinquishment shall be final when executed, unless the*
18 *relinquishing party, prior to the entry of a final order terminating parental*
19 *rights, alleges and proves by clear and convincing evidence that the*
20 *relinquishment was not freely and voluntarily given. The burden of proving*
21 *that the relinquishment was not freely and voluntarily given shall rest with*
22 *the relinquishing party.*

23 (e) Except as otherwise provided, in all cases where a parent or
24 person in loco parentis has relinquished a child to ~~the~~ *an* agency pursuant
25 to K.S.A. 59-2111 through 59-2143, and amendments thereto, all the rights
26 of the parent or person in loco parentis shall be terminated, ~~including the~~
27 ~~right to receive notice in a subsequent adoption proceeding involving the~~
28 ~~child.~~ If a parent has relinquished a child to the agency pursuant to K.S.A.
29 59-2111 through 59-2143, and amendments thereto, ~~based on a belief that~~
30 ~~the child's other parent would relinquish the child to the agency, and such~~
31 *the other parent does not relinquish such child to the agency and the other*
32 *parent's rights are not terminated by a final court order, the rights of such*
33 *the parent who has relinquished a child to the agency shall not be*
34 *terminated. Upon such relinquishment, all the rights of birth parents to*
35 *such child, including their right to inherit from or through such child, shall*
36 *cease and the full rights of the parent are restored.*

37 (e)(f) A parent's relinquishment of a child shall not terminate the right
38 of the child to inherit from or through such parent.

39 Sec. 11. K.S.A. 59-2126 is hereby amended to read as follows: 59-
40 2126. (a) *Except as provided in subsection (f), in an independent adoption,*
41 *venue shall be in the county in which the petitioner resides or in the county*
42 *in which the child to be adopted resides.*

43 (b) *Except as provided in subsection (f), in an agency adoption, venue*

1 shall be *in the county*:

2 (1) ~~In the county~~ In which the petitioner resides;

3 (2) ~~in the county~~ in which the child to be adopted resided prior to
4 receipt of custody by the agency; or

5 (3) where the *principal place of business for the child placing agency*
6 is located.

7 (c) *Except as provided in subsection (f)*, in a stepparent adoption,
8 venue shall be in the county in which the petitioner resides or where the
9 child resides.

10 (d) If the petitioner resides upon or is stationed at a United States
11 military post or reservation within this state, and the child to be adopted is
12 then residing with the petitioner, venue may be in the district court of the
13 county in which the post or reservation is located, or in the district court of
14 any county located immediately adjacent to such county.

15 (e) Where the residence of the child, as defined in K.S.A. 59-2112,
16 *and amendments thereto*, serves as the basis for venue, a sworn affidavit
17 shall be filed with the petition setting forth the factual basis for the child's
18 residency.

19 (f) *In all adoptions, venue may be established in any county in*
20 *Kansas, if all parties in interest agree in writing to venue in that county.*

21 Sec. 12. K.S.A. 59-2127 is hereby amended to read as follows: 59-
22 2127. ~~(a) A court of this state may not exercise jurisdiction over a~~
23 ~~proceeding for adoption of a minor if at the time the petition for adoption~~
24 ~~is filed a proceeding concerning the custody or adoption of the minor is~~
25 ~~pending in a court of another state exercising jurisdiction substantially in~~
26 ~~conformity with the uniform child custody jurisdiction act, or the uniform~~
27 ~~child custody jurisdiction and enforcement act, or this act unless the~~
28 ~~proceeding is stayed by the court of the other state.~~

29 ~~(b) If a court of another state has issued a decree or order concerning~~
30 ~~the custody of a minor who may be the subject of a proceeding for~~
31 ~~adoption in this state, a court of this state may not exercise jurisdiction~~
32 ~~over a proceeding for adoption of the minor unless:~~

33 ~~(1) The court of this state finds that the court of the state which issued~~
34 ~~the decree or order:~~

35 ~~(A) Does not have continuing jurisdiction to modify the decree or~~
36 ~~order under jurisdictional prerequisites substantially in accordance with~~
37 ~~the uniform child custody jurisdiction act, or the uniform child custody~~
38 ~~jurisdiction and enforcement act, or has declined to assume jurisdiction to~~
39 ~~modify the decree or order, or~~

40 ~~(B) does not have jurisdiction over a proceeding for adoption~~
41 ~~substantially in conformity with subsection (a)(1) through (4) or has~~
42 ~~declined to assume jurisdiction proceeding for adoption; and~~

43 ~~(2) the court of this state has jurisdiction over the proceeding.~~

1 ~~(e) Before determining whether or not to exercise its jurisdiction the~~
2 ~~court may communicate with a court of another state and exchange~~
3 ~~information pertinent to the assumption of jurisdiction by either court with~~
4 ~~a view to assuring that jurisdiction will be exercised by such court of~~
5 ~~another state and that a forum will be available to the parties.~~

6 ~~(d) If the court determines not to exercise its jurisdiction, it may~~
7 ~~dismiss the proceedings, or it may stay the proceedings upon condition~~
8 ~~that an adoption proceeding be promptly commenced in another named~~
9 ~~state or upon any other conditions which may be just and proper.~~
10 *Jurisdiction over proceedings under the Kansas adoption and*
11 *relinquishment act including a proceeding to terminate parental rights*
12 *pursuant to K.S.A. 59-2136, and amendments thereto, is governed by the*
13 *uniform child custody jurisdiction and enforcement act, K.S.A. 23-37,101*
14 *through 23-37,405, and amendments thereto, except that in adoption*
15 *proceedings, the notice provisions of K.S.A. 59-2133 and 59-2136, and*
16 *amendments thereto, shall control.*

17 Sec. 13. K.S.A. 59-2128 is hereby amended to read as follows: 59-
18 2128. (a) A petition for adoption shall be filed by the person desiring to
19 adopt the child, and shall state the following information, if reasonably
20 ascertainable, under oath:

- 21 (1) The name, residence and address of the petitioner;
- 22 (2) the suitability of the petitioner to assume the relationship;
- 23 (3) the name of the child, the date, time and place of the child's birth,
24 and the present address or whereabouts of the child;
- 25 (4) the places where the child has lived during the last five years;
- 26 (5) the names and present addresses of the persons with whom the
27 child has lived during that period;
- 28 (6) whether the party has participated, as a party or witness or in any
29 other capacity, in any other proceeding concerning the custody of or
30 visitation with the child and, if so, identify the court, the case number, and
31 the date of the child-custody determination, if any;
- 32 (7) whether the party knows of any proceeding that could affect the
33 current proceeding, including proceedings for enforcement and
34 proceedings relating to domestic violence, protective orders, termination
35 of parental rights, and adoptions and, if so, identify the court, the case
36 number, and the nature of the proceeding;
- 37 (8) whether the party knows the names and addresses of any person
38 not a party to the proceeding who has physical custody of the child or
39 claims rights of legal custody or physical custody of, or visitation with, the
40 child and, if so, the names and addresses of those persons;
- 41 (9) whether one or both parents are living and the name, date of birth,
42 residence and address of those living, so far as known to the petitioner;
- 43 (10) the facts relied upon as eliminating the necessity for the consent

1 *or relinquishment*, if the consent *or relinquishment* of either or both
2 parents is not obtained;

3 (11) whether the interstate compact on placement of children, K.S.A.
4 38-1201 et seq., and amendments thereto, and the Indian child welfare act,
5 25 U.S.C. have been or will be complied with prior to the hearing.

6 (b) If the information required by subsection (a) is not furnished, the
7 court, upon motion of a party or its own motion, may stay the proceeding
8 until the information is furnished.

9 (c) If the declaration as to any of the items described in subsection (a)
10 (6) through (a)(9) is in the affirmative, the declarant shall give additional
11 information under oath as required by the court. The court may examine
12 the parties under oath as to details of the information furnished and other
13 matters pertinent to the court's jurisdiction and the disposition of the case.

14 (d) The petitioner has a continuing duty to inform the court of any
15 proceeding in this or any other state that could affect the current
16 proceeding.

17 (e) A petition filed in a step parent adoption shall not require a
18 statement in compliance with the interstate compact on placement of
19 children.

20 (f) The written consents to adoption required by K.S.A. 59-2129, and
21 amendments thereto, *or any relinquishment pursuant to K.S.A. 59-2124,*
22 *and amendments thereto*, the background information required by K.S.A.
23 59-2130, and amendments thereto, the accounting required by K.S.A. 59-
24 2121, and amendments thereto, and any affidavit required by K.S.A. 59-
25 2126, *and amendments thereto*, shall be filed with the petition for
26 adoption.

27 Sec. 14. K.S.A. 2017 Supp. 59-2130 is hereby amended to read as
28 follows: 59-2130. (a) The following information shall be filed with the
29 petition in an independent or agency adoption:

30 (1) A complete written genetic, medical and social history of the child
31 and the parents;

32 (2) the names, dates of birth, addresses, telephone numbers, and
33 social security numbers of each of the child's parents, if known;

34 (3) ~~any hospital records pertaining to the child or~~ a properly executed
35 authorization for release of ~~those~~ *any hospital records pertaining to the*
36 *child*; and

37 (4) the child's birth verification, which shall include the date, time
38 and place of birth and the name of the attending physician.

39 (b) The genetic, medical and social history required by this section
40 shall be in conformity with the rules and regulations adopted by the
41 secretary for children and families and on forms provided by the secretary.

42 (c) If any information required to be filed under this section is not
43 available, an affidavit explaining the reasons why it is not available shall

1 be filed with the petition for adoption.

2 (d) The secretary for children and families shall adopt rules and
3 regulations establishing procedures for updating a child's genetic, medical
4 and social history if new information becomes known at a later date. The
5 agency or person conducting the investigation under K.S.A. 59-2132, and
6 amendments thereto, shall advise in writing each of the child's biological
7 parents, if known, of those procedures.

8 (e) Any employee or agent of the Kansas department for children and
9 families, a child-placing agency or a district court who intentionally
10 destroys any information required to be filed under this section is guilty of
11 a class C *nonperson* misdemeanor.

12 Sec. 15. K.S.A. 2017 Supp. 59-2132 is hereby amended to read as
13 follows: 59-2132. (a) Except as provided in subsection (h), in independent
14 and agency adoptions, the court shall require the petitioner to obtain an
15 assessment of the advisability of the adoption by a court approved:

16 (1) (A) Licensed social worker, licensed specialist social worker,
17 licensed specialist clinical social worker, licensed masters social worker,
18 licensed baccalaureate social worker or licensed associate social worker
19 licensed by the behavioral sciences regulatory board;

20 (B) licensed clinical marriage and family therapist as defined in
21 K.S.A. 65-6402, and amendments thereto;

22 (C) licensed marriage and family therapist as defined in K.S.A. 65-
23 6402, and amendments thereto;

24 (D) licensed clinical professional counselor as defined in K.S.A. 65-
25 5802, and amendments thereto;

26 (E) licensed professional counselor as defined in K.S.A. 65-5802, and
27 amendments thereto;

28 (F) licensed psychologist as defined in K.S.A. 65-6319, and
29 amendments thereto;

30 (G) licensed masters level psychologist as defined in K.S.A. 74-5362,
31 and amendments thereto;

32 (H) licensed clinical psychotherapist as defined in K.S.A. 74-5363,
33 and amendments thereto; or

34 (I) a licensed child-placing agency.

35 (2) Any person performing an assessment pursuant to this subsection
36 shall:

37 (A) Possess a minimum of two years experience in adoption services
38 or be supervised by a person with such experience; or

39 (B) if licensed by the behavioral sciences regulatory board to
40 diagnose and treat mental disorders in independent practice, possess a
41 minimum of one year of experience in adoption services or be supervised
42 by a person with such experience.

43 (b) The petitioner shall file with the court, ~~not less than 10 days~~

1 before the hearing on the petition; a report of the assessment and, if
2 necessary, confirmation or clarification of the information filed under
3 K.S.A. 59-2130, and amendments thereto.

4 (c) If there is no one authorized pursuant to this section available to
5 make the assessment and report to the court, the court may use the Kansas
6 department for children and families for that purpose.

7 (d) The costs of making the assessment and report may be assessed as
8 court costs in the case as provided in article 20 of chapter 60 of the Kansas
9 Statutes Annotated, and amendments thereto.

10 (e) In making the assessment, the person authorized pursuant to this
11 section or Kansas department for children and families is authorized to
12 observe the child in the petitioner's home, verify financial information of
13 the petitioner, shall clear the name of the petitioner with the child abuse
14 and neglect registry through the Kansas department for children and
15 families and, when appropriate, with a similar registry in another state or
16 nation, shall determine whether the petitioner has been convicted of a
17 felony for any act described in articles 34, 35 or 36 of chapter 21 of the
18 Kansas Statutes Annotated, prior to their repeal, or articles 54, 55 or 56 of
19 chapter 21 of the Kansas Statutes Annotated, or K.S.A. 2017 Supp. 21-
20 6104, 21-6325, 21-6326 or 21-6418 through 21-6422, and amendments
21 thereto, or, within the last five years been convicted of a felony violation
22 of K.S.A. 2010 Supp. 21-36a01 through 21-36a17, prior to their transfer,
23 or article 57 of chapter 21 of the Kansas Statutes Annotated, and
24 amendments thereto, or any felony violation of any provision of the
25 uniform controlled substances act prior to July 1, 2009, and, when
26 appropriate, any similar conviction in another jurisdiction, and to contact
27 the agency or individuals consenting to the adoption and confirm and, if
28 necessary, clarify any genetic and medical history filed with the petition.
29 This information shall be made a part of the report to the court. The report
30 to the court by any person authorized pursuant to this section to perform
31 this assessment shall include the results of the investigation of the
32 petitioner, the petitioner's home and the ability of the petitioner to care for
33 the child.

34 (f) In the case of a nonresident who is filing a petition to adopt a child
35 in Kansas, the assessment and report required by this section must be
36 completed in the petitioner's state of residence by a person authorized in
37 that state to conduct such assessments. ~~Such report shall be filed with the~~
38 ~~court not less than 10 days before the hearing on the petition.~~

39 (g) The assessment and report required by this section shall comply
40 with any applicable rules and regulations of the department of health and
41 environment and shall have been completed not more than one year prior
42 to the filing of the petition for adoption.

43 (h) The assessment and report required by this section may be waived

1 by the court upon:

2 (1) Review of a petition requesting such waiver by a relative of the
3 child; or

4 (2) the court's own motion.

5 Sec. 16. K.S.A. 2017 Supp. 59-2133 is hereby amended to read as
6 follows: 59-2133. (a) Upon filing the petition, the court shall fix the time
7 and place for the hearing. The time fixed for the hearing may be any time
8 not more than 60 days from the date the petition is filed. The time fixed for
9 the hearing may be extended by the court for good cause.

10 (b) In independent and stepparent adoptions, notice of the hearing on
11 the petition shall be given to the parents or ~~presumed possible~~ *possible* parents *at*
12 *least 10 calendar days before the hearing*, unless waived by the party
13 entitled to notice or unless parental rights have been previously terminated,
14 ~~and any other persons as the court may direct, to any person who has~~
15 *physical custody of the child*, unless waived by the ~~party~~ *person* entitled to
16 notice. Notice also shall be given in an independent adoption to a legal
17 guardian of the child ~~or individual in loco parentis~~, unless waived by the
18 party entitled to notice.

19 (c) In an agency adoption, notice of the hearing on the petition shall
20 be given to the consenting agency, *the parents or possible parents, any*
21 *relinquishing party and any person who has physical custody of the child*
22 *at least 10 calendar days before the hearing*, unless waived by the ~~party~~
23 *person* entitled to notice.

24 (d) *Notice of the hearing shall be by personal service, certified mail*
25 *return receipt requested or in any other manner the court may direct.*
26 Notice given pursuant to this section shall not include a copy of the
27 petition.

28 Sec. 17. K.S.A. 59-2134 is hereby amended to read as follows: 59-
29 2134. (a) Upon the hearing of the petition, the court shall consider the
30 assessment and all evidence, including evidence relating to determination
31 of whether or not the court should exercise its jurisdiction ~~as provided in~~
32 ~~K.S.A. 59-2127~~, offered by any ~~interested~~ party *in interest*. If the adoption
33 is granted, the court shall ~~make~~ *enter* a final decree of adoption, *which*
34 *terminates parental rights if not previously terminated*.

35 (b) If the adoption is denied, the court shall enter appropriate orders.
36 Such orders may include an order giving temporary custody of the child to
37 another person or agency for a period not to exceed 30 days pending
38 termination of the instant case or a new case being filed.

39 (c) The costs of the adoption proceedings shall be paid by the
40 petitioner or as assessed by the court.

41 Sec. 18. K.S.A. 2017 Supp. 59-2136 is hereby amended to read as
42 follows: 59-2136. (a) The provisions of this section shall apply where a
43 relinquishment or consent to an adoption has not been obtained from a

1 parent and K.S.A. 59-2124 and 59-2129, and amendments thereto, state
2 that the necessity of a parent's relinquishment or consent can be
3 determined under this section.

4 (b) Insofar as practicable, the provisions of this section applicable to
5 the father also shall apply to the mother and those applicable to the mother
6 also shall apply to the father.

7 ~~(c) In stepparent adoptions under subsection (d), the court may~~
8 ~~appoint an attorney to represent any father who is unknown or whose~~
9 ~~whereabouts are unknown. In all other cases, The court shall appoint an~~
10 attorney to represent any father who is unknown or whose whereabouts are
11 unknown. If no person is identified as the father or a possible father, *or if*
12 *the father's whereabouts are unknown*, the court shall order publication
13 notice of the hearing in such manner as the court deems appropriate.

14 ~~(d) In a stepparent adoption, if a mother consents to the adoption of a~~
15 ~~child who has a presumed father under subsection (a)(1), (2) or (3) of~~
16 ~~K.S.A. 2017 Supp. 23-2208, and amendments thereto, or who has a father~~
17 ~~as to whom the child is a legitimate child under prior law of this state or~~
18 ~~under the law of another jurisdiction, the consent of such father must be~~
19 ~~given to the adoption unless such father has failed or refused to assume the~~
20 ~~duties of a parent for two consecutive years next preceding the filing of the~~
21 ~~petition for adoption or is incapable of giving such consent. In determining~~
22 ~~whether a father's consent is required under this subsection, the court may~~
23 ~~disregard incidental visitations, contacts, communications or contributions.~~
24 ~~In determining whether the father has failed or refused to assume the~~
25 ~~duties of a parent for two consecutive years next preceding the filing of the~~
26 ~~petition for adoption, there shall be a rebuttable presumption that if the~~
27 ~~father, after having knowledge of the child's birth, has knowingly failed to~~
28 ~~provide a substantial portion of the child support as required by judicial~~
29 ~~decree, when financially able to do so, for a period of two years next~~
30 ~~preceding the filing of the petition for adoption, then such father has failed~~
31 ~~or refused to assume the duties of a parent. The court may consider the~~
32 ~~best interests of the child and the fitness of the nonconsenting parent in~~
33 ~~determining whether a stepparent adoption should be granted.~~

34 (e) Except as provided in subsection (d), if a mother desires to
35 relinquish or consents to the adoption of such mother's child, a petition
36 shall be filed in the district court to terminate the parental rights of the
37 father, unless the father's relationship to the child has been previously
38 terminated or determined not to exist by a court. The petition may be filed
39 by the mother, the petitioner for adoption, the person or agency having
40 custody of the child or the agency to which the child has been or is to be
41 relinquished. Where appropriate, the request to terminate parental rights
42 may be contained in a petition for adoption.

43 (d) (1) *A petition to terminate parental rights may be filed as part of*

1 a petition for adoption or as an independent action. If the request to
2 terminate parental rights is not filed ~~in connection with~~ as part of an
3 adoption proceeding, venue shall be in the county in which the child, ~~the~~
4 ~~mother or the presumed or alleged father~~ or a parent resides or is found.

5 (2) The petition may be filed by a parent, the petitioner for adoption,
6 the person or agency having legal custody of the child, or the agency to
7 which the child has been relinquished.

8 (3) Absent a finding of good cause by a court with jurisdiction under
9 this act, a proceeding to terminate parental rights shall have precedence
10 over any proceeding involving custody of the child under the Kansas
11 family law code, K.S.A. 23-2101 et seq., and amendments thereto, or the
12 protection from abuse act, K.S.A. 60-3101 et seq., and amendments
13 thereto, until a final order is entered on the termination issues or until
14 further orders of the court.

15 (e) In an effort to identify the father, the court shall determine by
16 deposition, affidavit or hearing, the following:

17 (1) Whether there is a presumed father under K.S.A. 2017 Supp. 23-
18 2208, and amendments thereto;

19 (2) whether there is a father whose relationship to the child has been
20 determined by a court;

21 (3) whether there is a father as to whom the child is a legitimate child
22 under prior law of this state or under the law of another jurisdiction;

23 (4) whether the mother was cohabitating with a man at the time of
24 conception or birth of the child;

25 (5) whether the mother has received support payments or promises of
26 support with respect to the child or in connection with such mother's
27 pregnancy; and

28 (6) whether any ~~man~~ person has formally or informally
29 acknowledged or declared such ~~man's~~ person's possible ~~paternity~~
30 ~~parentage~~ of the child.

31 If the father is identified to the satisfaction of the court, or if more than
32 one man is identified as a possible father, each shall be given notice of the
33 proceeding in accordance with subsection (f).

34 (f) Notice of the proceeding shall be given to every person identified
35 as the father or a possible father by personal service, certified mail return
36 receipt requested or in any other manner the court may direct. *Notice shall*
37 *be given at least 10 calendar days before the hearing, unless waived by*
38 *the person entitled to notice.* Proof of notice or waiver of notice shall be
39 filed with the court before the petition or request is heard.

40 (g) (1) If, after the inquiry, the court is unable to identify the father or
41 any possible father and no person has appeared claiming to be the father
42 and claiming custodial rights, the court shall enter an order terminating the
43 unknown father's parental rights with reference to the child without regard

1 ~~to~~ *consideration of* subsection (h).

2 (2) If any person identified as the father or possible father of the child
3 fails to appear or, if appearing, fails to claim custodial rights, such person's
4 parental rights with reference to the child shall be terminated without
5 ~~regard to~~ *consideration of* subsection (h).

6 (h) (1) When a father or alleged father appears and ~~asserts~~ *claims*
7 parental rights, the court shall determine parentage, if necessary pursuant
8 to the Kansas parentage act, K.S.A. 2017 Supp. 23-2201 et seq., and
9 amendments thereto. If a father desires but is financially unable to employ
10 an attorney, the court shall appoint an attorney for the father. Thereafter,
11 the court may order that parental rights be terminated *and find the consent*
12 *or relinquishment unnecessary*, upon a finding by clear and convincing
13 evidence, of any of the following:

14 (A) The father abandoned or neglected the child after having
15 knowledge of the child's birth;

16 (B) the father is unfit as a parent or incapable of giving consent;

17 (C) the father has made no reasonable efforts to support or
18 communicate with the child after having knowledge of the child's birth;

19 (D) the father, after having knowledge of the pregnancy, failed
20 without reasonable cause to provide support for the mother during the six
21 months prior to the child's birth;

22 (E) the father abandoned the mother after having knowledge of the
23 pregnancy;

24 (F) the birth of the child was the result of rape of the mother; or

25 (G) the father has failed or refused to assume the duties of a parent
26 for two consecutive years ~~next~~ *immediately* preceding the filing of the
27 petition.

28 (2) In making a finding whether parental rights shall be terminated
29 under this subsection, the court ~~may~~:

30 (A) ~~Consider and weigh the best interest of the child; and~~ *Shall*
31 *consider all of the relevant surrounding circumstances; and*

32 (B) *may* disregard incidental visitations, contacts, communications or
33 contributions.

34 (3) In determining whether the father has failed or refused to assume
35 the duties of a parent for two consecutive years ~~next~~ *immediately*
36 preceding the filing of the petition for adoption, there shall be a rebuttable
37 presumption that if the father, after having knowledge of the child's birth,
38 has knowingly failed to provide a substantial portion of the child support
39 as required by judicial decree, when financially able to do so, for a period
40 of two years ~~next~~ *immediately* preceding the filing of the petition for
41 adoption, then such father has failed or refused to assume the duties of a
42 parent.

43 (4) *For the purposes of this subsection, "support" means monetary or*

1 *non-monetary assistance that is reflected in specific and significant acts*
2 *and sustained over the applicable period.*

3 (i) A termination of parental rights under this section shall not
4 terminate the right of the child to inherit from or through the parent. Upon
5 such termination, all the rights of birth parents to such child, including
6 their right to inherit from or through such child, shall cease.

7 Sec. 19. K.S.A. 59-2138 is hereby amended to read as follows: 59-
8 2138. (a) *A court of this state has jurisdiction over a proceeding for the*
9 *adoption of an adult if the petitioner or the adult to be adopted resides in*
10 *this state.*

11 (b) Venue shall be in the county in which the petitioner or the adult to
12 be adopted resides. *Venue may be established in any county in Kansas if*
13 *all parties in interest agree in writing to venue in that county.*

14 Sec. 20. K.S.A. 59-2141 is hereby amended to read as follows: 59-
15 2141. (a) The court, by order, shall fix a time and place for hearing on the
16 petition *for adult adoption*. The hearing may be with or without notice as
17 the court shall direct and the court may hear the petition forthwith.

18 (b) The court may order that notice of the hearing be given to the
19 parents of the adult subject of the adoption and shall require notice, unless
20 waived, to any consenting party.

21 Sec. 21. K.S.A. 59-2143 is hereby amended to read as follows: 59-
22 2143. ~~The form forms~~ for consent ~~and~~, *relinquishment and waiver of*
23 *notice of hearing* to be utilized under the Kansas adoption and
24 relinquishment act shall be set forth by the judicial council.

25 Sec. 22. K.S.A. 59-2112, 59-2113, 59-2114, 59-2116, 59-2117, 59-
26 2120, 59-2121, 59-2124, 59-2126, 59-2127, 59-2128, 59-2134, 59-2138,
27 59-2141 and 59-2143 and K.S.A. 2017 Supp. 59-2122, 59-2123, 59-2130,
28 59-2132, 59-2133 and 59-2136 are hereby repealed.

29 Sec. 23. This act shall take effect and be in force from and after its
30 publication in the statute book.