

## HOUSE BILL No. 2244

By Committee on Health and Human Services

2-5

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1 AN ACT concerning children and families; enacting the safe families act.

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

4 Section 1. Sections 1 through 6 shall be known and may be cited as  
5 the safe families act.

6 Sec. 2. As used in the safe families act:

7 (a) "Attorney in fact" shall have the same meaning as defined in  
8 K.S.A. 58-651, and amendments thereto.

9 (b) "Serving parent" means a parent who is a member of the reserves  
10 of the army, navy, air force, marine corps or coast guard of the United  
11 States or the commissioned corps of the national oceanic and atmospheric  
12 administration or the public health service of the United States department  
13 of health and human services detailed by proper authority for duty with the  
14 army or navy of the United States, or who is required to enter or serve in  
15 the active military service of the United States under a call or order of the  
16 president of the United States or to serve on state active duty.

17 Sec. 3. (a) A parent or legal custodian of a child may by a properly  
18 executed power of attorney provided in section 4, and amendments  
19 thereto, delegate to another person known as the attorney in fact, for a  
20 period not to exceed one year, except as provided in subsection (f), any of  
21 the powers regarding the care and custody of the child, except the power to  
22 consent to marriage or adoption of the child, the performance or  
23 inducement of an abortion on or for the child, or the termination of  
24 parental rights to the child. A delegation of powers under this section shall  
25 not deprive the parent or legal custodian of any parental or legal authority  
26 regarding the care and custody of the child.

27 (b) The parent or legal custodian of the child shall have the authority  
28 to revoke or withdraw the power of attorney authorized by subsection (a)  
29 at any time. Except as provided in subsection (f), if the delegation of  
30 authority lasts longer than one year, the parent or legal custodian of the  
31 child shall execute a new power of attorney for each additional year that  
32 the delegation exists. If a parent withdraws or revokes the power of  
33 attorney the child shall be returned to the custody of the parents as soon as  
34 reasonably possible.

35 (c) Unless the authority is revoked or withdrawn by the parent the  
36 attorney in fact shall exercise parental or legal authority on a continuous

1 basis without compensation for the duration of the power of attorney  
2 authorized by subsection (a) and shall not be subject to any laws or rules  
3 or regulations dealing with the licensing or regulation of foster care  
4 homes.

5 (d) Except as otherwise provided by law, the execution of a power of  
6 attorney by a parent or legal custodian, as authorized in subsection (a),  
7 shall not constitute abandonment, abuse or neglect as defined in K.S.A.  
8 38-2202, and amendments thereto, unless the parent or legal custodian  
9 fails to take custody of the child or execute a new power of attorney after  
10 the one-year time limit has elapsed.

11 (e) Under a delegation of powers as authorized by subsection (a), the  
12 child or children subject to the power of attorney shall not be considered as  
13 placed in foster care and the parties shall not be subject to any of the  
14 requirements or licensing laws, rules or regulations for foster care or other  
15 regulations relating to community care for children.

16 (f) A serving parent may delegate the power designated in subsection  
17 (a) for a period longer than one year if on active duty service. The term of  
18 delegation, however, may not exceed the term of active duty service plus  
19 30 days.

20 Sec. 4. (a) The following statutory form of power of attorney to  
21 delegate parental or legal authority as authorized by section 3, and  
22 amendments thereto, is legally sufficient:

23 Statutory Form for Power of Attorney to Delegate Parental or Legal  
24 Custodian Powers

25 1. "I certify that I am the parent or legal custodian of:

26 \_\_\_\_\_  
27 \_\_\_\_\_  
28 (Full name of minor child) (Date of birth)

29 \_\_\_\_\_  
30 \_\_\_\_\_  
31 (Full name of minor child) (Date of birth)

32 \_\_\_\_\_  
33 \_\_\_\_\_  
34 (Full name of minor child) (Date of birth)"

35  
36 2. "I designate \_\_\_\_\_ (Full name of Attorney in fact),

37 \_\_\_\_\_  
38 \_\_\_\_\_  
39 (Street address, city, state and zip code of Attorney in fact)

40 \_\_\_\_\_  
41 \_\_\_\_\_  
42 (Home phone of Attorney in fact) (Work phone of Attorney in fact)

43 as the attorney in fact of each minor child named above."

1        3. "I delegate to the attorney in fact all of my power and authority  
 2 regarding the care, custody and property of each minor child named above,  
 3 including, but not limited to, the right to enroll the child in school, inspect  
 4 and obtain copies of education records and other records concerning the  
 5 child, the right to attend school activities and other functions concerning  
 6 the child, and the right to give or withhold any consent or waiver with  
 7 respect to school activities, medical and dental treatment, and any other  
 8 activity, function or treatment that may concern the child. This delegation  
 9 shall not include the power or authority to consent to marriage or adoption  
 10 of the child, the performance or inducement of an abortion on or for the  
 11 child, or the termination of parental rights to the child." or

12        4. I delegate to the attorney in fact the following specific powers and  
 13 responsibilities (write in):

14 \_\_\_\_\_  
 15 (In the event paragraph 4 is completed paragraph 3 does not apply).

16        This delegation shall not include the power or authority to consent to  
 17 marriage or adoption of the child, the performance or inducement of an  
 18 abortion on or for the child, or the termination of parental rights to the  
 19 child."

20        5. "This power of attorney is effective for a period not to exceed one  
 21 year, beginning \_\_\_\_\_, 20\_\_, and ending \_\_\_\_\_, 20\_\_.  
 22 I reserve the right to revoke this authority at any time."

23        6. I am a serving parent as defined in the safe families act. My active  
 24 duty is estimated to be completed on \_\_\_\_\_. I  
 25 acknowledge that in no event may this delegation of power last more than  
 26 one year or the term on my active duty plus 30 days, whichever is longer.

27 By: \_\_\_\_\_  
 28 (Parent/Legal Custodian signature)"

29        7. "I hereby accept my designation as attorney in fact for

30 \_\_\_\_\_  
 31 (Minor child(ren)) as specified in this power of attorney.

32 \_\_\_\_\_  
 33 (Attorney in fact signature)

34 State of \_\_\_\_\_

35 County of \_\_\_\_\_

36 **ACKNOWLEDGMENT**

37 Before me, the undersigned, a Notary Public, in and for  
 38 \_\_\_\_\_ County and this State on this \_\_\_\_ day of  
 39 \_\_\_\_\_, 20\_\_, personally appeared \_\_\_\_\_

40 (Name of Parent/Legal Custodian) and \_\_\_\_\_

41 (Name of Attorney in fact), to me known to be the identical persons who  
 42 executed this instrument and acknowledged to me that each executed the  
 43 same of such person's free and voluntary act and deed for the uses and

1 purposes set forth in the instrument.  
2 Witness my hand and official seal the day and year above written.

3  
4 \_\_\_\_\_  
5 (Signature of notarial officer)  
6 (Seal, if any)

7  
8 \_\_\_\_\_  
9 (Title and Rank)  
10 My commission expires: \_\_\_\_\_"

11 (b) The power of attorney is legally sufficient under the safe families  
12 act, if the wording of the form complies substantially with subsection (a),  
13 the form is properly completed and the signatures of the parties are  
14 acknowledged.

15 Sec. 5. During any child protective investigation by the Kansas  
16 department for children and families that does not result in an out of home  
17 placement resulting from abuse of a child, a child protective investigator  
18 shall provide information to the parent or custodians who are under  
19 financial distress, unemployed, homeless or experiencing other family  
20 crises about community service programs that provide respite care,  
21 voluntary guardianship, other support services for families in crisis,  
22 including churches and other organizations that work with safe families for  
23 children, and the safe families act.

24 Sec. 6. Any attorney in fact delegated authority under the safe  
25 families act by a parent or legal custodian is not subject to the  
26 requirements of any other child care facility licensing statutes, rules or  
27 regulations or foster care licensing laws or rules or regulations, and will  
28 not constitute an out-of-home child placement under the child in need of  
29 care code, K.S.A. 38-2201 et seq., and amendments thereto.

30 Sec. 7. The Kansas department for children and families is hereby  
31 authorized to work with families who are in financial distress,  
32 unemployed, homeless or experiencing other family crises by detailing  
33 community resources available to such families in the community,  
34 including, but not limited to, respite care, voluntary guardianship under the  
35 safe families act and information regarding churches and other  
36 organizations that work as host families for safe families for children in the  
37 state.

38 Sec. 8. This act shall take effect and be in force from and after its  
39 publication in the statute book.