

SENATE BILL No. 87

By Senator Holland

1-24

1 AN ACT concerning children and minors; requiring a duly ordained
2 minister of religion to report certain abuse and neglect; amending
3 K.S.A. 2022 Supp. 38-2223 and repealing the existing section.
4

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

6 Section 1. K.S.A. 2022 Supp. 38-2223 is hereby amended to read as
7 follows: 38-2223. (a) *Persons making reports.* (1) When any of the
8 following persons has reason to suspect that a child has been harmed as a
9 result of physical, mental or emotional abuse or neglect or sexual abuse,
10 the person shall report the matter promptly as provided in subsections (b)
11 and (c);:

12 (A) The following persons providing medical care or treatment:
13 Persons licensed to practice the healing arts, dentistry and optometry,
14 persons engaged in postgraduate training programs approved by the state
15 board of healing arts, licensed professional or practical nurses and chief
16 administrative officers of medical care facilities;

17 (B) the following persons licensed by the state to provide mental
18 health services: Licensed psychologists, licensed masters level
19 psychologists, licensed clinical psychotherapists, licensed social workers,
20 licensed marriage and family therapists, licensed clinical marriage and
21 family therapists, licensed behavioral analysts, licensed assistant
22 behavioral analysts, licensed professional counselors, licensed clinical
23 professional counselors and registered alcohol and drug abuse counselors;

24 (C) teachers, school administrators and other employees of an
25 educational institution that the child is attending and any member of the
26 board of directors of the Kansas state high school activities association
27 referenced in K.S.A. 72-7114, and amendments thereto, and any person
28 who is employed by or is an officer of such association;

29 (D) persons licensed by the secretary of health and environment to
30 provide child care services or the employees of persons so licensed at the
31 place where the child care services are being provided to the child;

32 (E) firefighters, emergency medical services personnel, law
33 enforcement officers, juvenile intake and assessment workers, court
34 services officers, community corrections officers, case managers appointed
35 under K.S.A. 2022 Supp. 23-3508, and amendments thereto, and mediators
36 appointed under K.S.A. 2022 Supp. 23-3502, and amendments thereto;

1 ~~and~~

2 (F) any person employed by or who works as a volunteer for any
3 organization, whether for profit or not-for-profit, that provides social
4 services to pregnant teenagers, including, but not limited to, counseling,
5 adoption services and pregnancy education and maintenance; *and*

6 (G) *any duly ordained minister of religion as defined in K.S.A. 60-*
7 *429, and amendments thereto, and, notwithstanding any law to the*
8 *contrary, the penitential communication privilege as described in K.S.A.*
9 *60-429, and amendments thereto, shall not apply to the reports required*
10 *under this subparagraph.*

11 (2) In addition to the reports required under subsection (a)(1), any
12 person who has reason to suspect that a child may be a child in need of
13 care may report the matter as provided in subsection (b) and (c).

14 (b) *Form of report.* (1) The report may be made orally and shall be
15 followed by a written report if requested. Every report shall contain, if
16 known: The names and addresses of the child and the child's parents or
17 other persons responsible for the child's care; the location of the child if
18 not at the child's residence; the child's gender, race and age; the reasons
19 why the reporter suspects the child may be a child in need of care; if abuse
20 or neglect or sexual abuse is suspected, the nature and extent of the harm
21 to the child, including any evidence of previous harm; and any other
22 information that the reporter believes might be helpful in establishing the
23 cause of the harm and the identity of the persons responsible for the harm.

24 (2) When reporting a suspicion that a child may be in need of care,
25 the reporter shall disclose protected health information freely and
26 cooperate fully with the secretary and law enforcement throughout the
27 investigation and any subsequent legal process.

28 (c) *To whom made.* Reports made pursuant to this section shall be
29 made to the secretary, except as follows:

30 (1) When the Kansas department for children and families is not open
31 for business, reports shall be made to the appropriate law enforcement
32 agency. On the next day that the department is open for business, the law
33 enforcement agency shall report to the department any report received and
34 any investigation initiated pursuant to K.S.A. 38-2226, and amendments
35 thereto. The reports may be made orally or, on request of the secretary, in
36 writing.

37 (2) Reports of child abuse or neglect occurring in an institution
38 operated by the Kansas department of corrections shall be made to the
39 attorney general or the secretary of corrections. Reports of child abuse or
40 neglect occurring in an institution operated by the Kansas department for
41 aging and disability services shall be made to the appropriate law
42 enforcement agency. All other reports of child abuse or neglect by persons
43 employed by the Kansas department for aging and disability services or

1 the Kansas department for children and families, or of children of persons
2 employed by either department, shall be made to the appropriate law
3 enforcement agency.

4 (d) *Death of child.* Any person who is required by this section to
5 report a suspicion that a child is in need of care and who knows of
6 information relating to the death of a child shall immediately notify the
7 coroner as provided by K.S.A. 22a-242, and amendments thereto.

8 (e) *Violations.* (1) Willful and knowing failure to make a report
9 required by this section is a class B misdemeanor. It is not a defense that
10 another mandatory reporter made a report.

11 (2) Intentionally preventing or interfering with the making of a report
12 required by this section is a class B misdemeanor.

13 (3) Any person who willfully and knowingly makes a false report
14 pursuant to this section or makes a report that such person knows lacks
15 factual foundation is guilty of a class B misdemeanor.

16 (f) *Immunity from liability.* Anyone who, without malice, participates
17 in the making of a report to the secretary or a law enforcement agency
18 relating to a suspicion a child may be a child in need of care or who
19 participates in any activity or investigation relating to the report or who
20 participates in any judicial proceeding resulting from the report shall have
21 immunity from any civil liability that might otherwise be incurred or
22 imposed.

23 Sec. 2. K.S.A. 2022 Supp. 38-2223 is hereby repealed.

24 Sec. 3. This act shall take effect and be in force from and after its
25 publication in the statute book.