

HOUSE BILL No. 2167

By Committee on Judiciary

1-23

9 AN ACT concerning children in need of care; relating to reports of abuse
10 or neglect; amending K.S.A. 2006 Supp. 38-2223 and repealing the
11 existing section.
12

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

14 Section 1. K.S.A. 2006 Supp. 38-2223 is hereby amended to read as
15 follows: 38-2223. (a) *Persons making reports.* (1) When any of the follow-
16 ing persons has reason to suspect that a child has been harmed as a result
17 of physical, mental or emotional abuse or neglect or sexual abuse, the
18 person shall report the matter promptly as provided in subsections (b)
19 and (c);

20 (A) The following persons providing medical care or treatment: Per-
21 sons licensed to practice the healing arts, dentistry and optometry; per-
22 sons engaged in postgraduate training programs approved by the state
23 board of healing arts; licensed professional or practical nurses; and chief
24 administrative officers of medical care facilities;

25 (B) the following persons licensed by the state to provide mental
26 health services: Licensed psychologists, licensed masters level psycholo-
27 gists, licensed clinical psychotherapists, licensed social workers, licensed
28 marriage and family therapists, licensed clinical marriage and family ther-
29 apists, licensed professional counselors, licensed clinical professional
30 counselors and registered alcohol and drug abuse counselors;

31 (C) teachers, school administrators or other employees of an educa-
32 tional institution which the child is attending and persons licensed by the
33 secretary of health and environment to provide child care services or the
34 employees of persons so licensed at the place where the child care serv-
35 ices are being provided to the child; and

36 (D) firefighters, emergency medical services personnel, law enforce-
37 ment officers, juvenile intake and assessment workers, court services of-
38 ficers and community corrections officers, case managers appointed un-
39 der K.S.A. 2006 Supp. 23-1001 et seq., and amendments thereto, and
40 mediators appointed under K.S.A. 23-602, and amendments thereto.

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

1 (b) *Form of report.* (1) The report may be made orally and shall be
2 followed by a written report if requested. Every report shall contain, if
3 known: The names and addresses of the child and the child's parents or
4 other persons responsible for the child's care; the location of the child if
5 not at the child's residence; the child's gender, race and age; the reasons
6 why the reporter suspects the child may be a child in need of care; if
7 abuse or neglect or sexual abuse is suspected, the nature and extent of
8 the harm to the child, including any evidence of previous harm; and any
9 other information that the reporter believes might be helpful in estab-
10 lishing the cause of the harm and the identity of the persons responsible
11 for the harm.

12 (2) When reporting a suspicion that a child may be in need of care,
13 the reporter shall disclose protected health information freely and co-
14 operate fully with the secretary and law enforcement throughout the in-
15 vestigation and any subsequent legal process.

16 (c) *To whom made.* Reports made pursuant to this section shall be
17 made to the secretary *and to the county or district attorney of the juris-*
18 *isdiction in which the alleged abuse or neglect is believed to have occurred*
19 *or the jurisdiction in which the person making the report is located if the*
20 *venue of the alleged abuse or neglect is uncertain, except as follows:*

21 (1) When the department of social and rehabilitation services *or the*
22 *county or district attorney's office* is not open for business, reports shall
23 be made to the appropriate law enforcement agency. On the next day
24 that the department *or the county or district attorney's office* is open for
25 business, the law enforcement agency shall report to the department *or*
26 *the county or district attorney's office* any report received and any inves-
27 tigation initiated pursuant to K.S.A. 2006 Supp. 38-2226, and amend-
28 ments thereto. The reports may be made orally or, on request of the
29 secretary *or the county or district attorney's office*, in writing.

30 (2) Reports of child abuse or neglect occurring in an institution op-
31 erated by the secretary of social and rehabilitation services or the com-
32 missioner of juvenile justice shall be made to the attorney general. All
33 other reports of child abuse or neglect by persons employed by or of
34 children of persons employed by the department of social and rehabili-
35 tation services shall be made to the appropriate law enforcement agency
36 *and the county or district attorney's office.*

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

41 (e) *Violations.* (1) Willful and knowing failure to make a report re-
42 quired by this section is a class B misdemeanor. It is not a defense that
43 another mandatory reporter made a report.

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

3 (3) Any person who willfully and knowingly makes a false report pur-
4 suant to this section or makes a report that such person knows lacks
5 factual foundation is guilty of a class B misdemeanor.

6 (f) *Immunity from liability.* Anyone who, without malice, participates
7 in the making of a report to the secretary, *the county or district attorney*
8 or a law enforcement agency relating to a suspicion a child may be a child
9 in need of care or who participates in any activity or investigation relating
10 to the report or who participates in any judicial proceeding resulting from
11 the report shall have immunity from any civil liability that might otherwise
12 be incurred or imposed.

13 Sec. 2. K.S.A. 2006 Supp. 38-2223 is hereby repealed.

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