

HOUSE BILL No. 2443

By Committee on Appropriations

2-23

1 AN ACT concerning children and minors; establishing the office of the
2 child advocate as an independent state agency and the child advocate
3 advisory board; prescribing certain powers, duties and functions
4 thereof; allowing disclosure of confidential records to the child
5 advocate; amending K.S.A. 38-2213, 38-2309 and 38-2310 and K.S.A.
6 2022 Supp. 38-2211 and 38-2212.

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

9 New Section 1. (a) As used in sections 1 through 8, and amendments
10 thereto:

11 (1) "Child" means any individual under 18 years of age who:

12 (A) Is in the custody of the secretary for children and families;

13 (B) may be alleged to be a child in need of care as provided in K.S.A.
14 38-2201 et seq., and amendments thereto;

15 (C) is alleged to be a child in need of care as provided in K.S.A. 38-
16 2201 et seq.; or

17 (D) is currently or was receiving services or treatment from the
18 department of corrections; and

19 (2) "office" means the office of the child advocate that includes the
20 child advocate and staff.

21 New Sec. 2. (a) There is hereby established the office of the child
22 advocate, the head of which shall be the child advocate. In the
23 performance of the powers, duties and functions prescribed by law, the
24 office shall be an independent state agency. The child advocate shall be
25 appointed pursuant to section 5, and amendments thereto.

26 (b) The purpose of the office is to ensure that children and families
27 receive adequate coordination of child welfare services, child maltreatment
28 prevention, protection and care through services offered by the Kansas
29 department for children and families or the department's contracting
30 entities, the Kansas department for aging and disability services, the
31 department of corrections, the department of health and environment and
32 juvenile courts.

33 (c) The child advocate shall receive, investigate and attempt to
34 resolve complaints from any persons involved with the child welfare
35 system alleging that the Kansas department for children and families or the
36 department's contracting entities, the department of corrections, the

1 judicial branch or another child welfare stakeholder has provided
2 inadequate protection or care of children and assist the state of Kansas in
3 conducting oversight of the child welfare system to improve the safety and
4 wellbeing of children.

5 (d) The child advocate shall perform the duties required by sections 1
6 through 8, and amendments thereto, independently from state agencies and
7 other entities under review by the office and report directly to the office of
8 the child advocate advisory board.

9 New Sec. 3. (a) There is hereby established an independent and
10 nonpartisan child advocate advisory board.

11 (b) The board has the following duties and responsibilities in
12 overseeing the office of the child advocate:

13 (1) On or before December 1, 2023, appoint the child advocate, and
14 as necessary thereafter pursuant to section 5, and amendments thereto;

15 (2) for good cause and subject to a $2/3$ vote of the board, terminate the
16 child advocate;

17 (3) fill any vacancy of the child advocate;

18 (4) evaluate the child advocate's performance and receive feedback
19 on the child advocate's performance;

20 (5) develop a public complaint process related to the child advocate's
21 performance;

22 (6) oversee and advise the child advocate on the office's purpose;

23 (7) promote and ensure access to the office;

24 (8) provide fiscal oversight of the office's budget; and

25 (9) ensure compliance with the provisions of sections 1 through 8,
26 and amendments thereto, and any state or federal laws relating to child
27 welfare.

28 (c) Membership of the board shall not exceed 12 members and to the
29 extent practicable, include individuals from across the state, with different
30 abilities and ethnic diversity. All members shall have child welfare policy
31 or system expertise or experience.

32 (d) The board members shall be appointed before August 1, 2023, as
33 follows:

34 (1) The chief justice of the Kansas supreme court shall appoint:

35 (A) An individual with experience as a respondent parents' counsel;

36 (B) an individual with experience defending juveniles in court
37 proceedings;

38 (C) an individual with legal experience in child in need of care cases
39 or who served as a guardian ad litem; and

40 (D) an individual with experience in juvenile justice;

41 (2) the governor shall appoint:

42 (A) An individual with previous professional experience with a social
43 service agency in a rural area;

1 (B) an individual with previous professional experience with the
2 Kansas department for children and families;

3 (C) an individual with previous professional experience with a social
4 service agency in an urban area; and

5 (D) an individual with professional experience in primary or
6 secondary education;

7 (3) the president and minority leader of the Senate shall appoint:

8 (A) An individual who was a child in need of care; and

9 (B) an individual with professional experience providing mental
10 health services to a child in need of care; and

11 (4) the speaker and the minority leader of the House of
12 Representatives shall appoint:

13 (A) A current or former foster parent; and

14 (B) a healthcare professional with previous experience with child
15 abuse and neglect cases.

16 (e) Board members shall serve for a term of four years, except that
17 two members first appointed by the chief justice and the governor and one
18 member appointed by the president and minority leader of the senate and
19 the speaker and the minority leader of the house of representatives shall
20 serve a term of two years determined by the appointing authority.

21 (f) Whenever a vacancy occurs, such vacancy shall be filled in the
22 same manner as the vacated appointment.

23 (g) The board shall meet twice a year and may meet additionally as
24 needed. At least one meeting per year shall not be held in the Topeka
25 metropolitan area.

26 (h) Members of the board shall serve without compensation, but may
27 be reimbursed for actual and reasonable expenses incurred in the
28 performance of the board member's duties. Such expenses shall be paid by
29 the office of the child advocate from the office of the child advocate fund.

30 (i) The board shall be subject to the provisions of the open meetings
31 act, except to discuss personnel matters of non-elected personnel and to
32 discuss matters relating to the care of children pursuant to K.S.A. 38-2212
33 or 38-2213, and amendments thereto, and the federal child abuse
34 prevention and treatment act.

35 (j) The records of the board shall be subject to the provisions of the
36 open records act, except records pursuant to K.S.A. 45-221, and
37 amendments thereto.

38 New Sec. 4. (a) To fulfill the purpose of the office pursuant to section
39 2, and amendments thereto, the child advocate shall:

40 (1) Independently and impartially investigate complaints submitted to
41 the office. The child advocate may seek resolution of the complaint, which
42 may include, but not be limited to, referring a complaint to a state agency
43 or other entity for action;

- 1 (2) address complaints made by or on behalf of a child that relate to
2 state agencies, service providers, including contractors, subcontractors and
3 any juvenile court, that may adversely affect the health, safety, welfare,
4 permanency or wellbeing of such child;
- 5 (3) establish a procedure for receiving, processing, responding to and
6 resolving such complaints;
- 7 (4) ensure confidentiality of all complaints, including the identity of a
8 complainant or reporter, unless disclosure is deemed necessary for the
9 child advocate to perform the child advocate's duties, with consent from
10 such complainant or reporter;
- 11 (5) receive and exchange records as provided in K.S.A. 38-2201 et
12 seq. and 38-2301 et seq., and amendments thereto, to make inquiries and
13 review relevant information and records that the office deems necessary
14 for investigations;
- 15 (6) compile, collect and preserve a record of complaints received and
16 processed that may reveal concerning patterns to be addressed;
- 17 (7) submit any findings and recommendations to the Kansas
18 department for children and families and recommend changes to policies
19 and procedures to improve the delivery of child welfare services;
- 20 (8) recommend changes to policies, procedures or adopted or
21 proposed rules and regulations of any state or local agency that adversely
22 affect or may adversely affect the health, safety, welfare, permanency or
23 wellbeing of any child;
- 24 (9) analyze and monitor the development and implementation of
25 federal, state and local laws, rules and regulations and policies with respect
26 to child welfare services in the state and recommend changes in such laws,
27 rules and regulations and polices to the Kansas department for children
28 and families or the department's contracting entities, the Kansas
29 department for aging and disability services, the department of health and
30 environment, the department of corrections, juvenile courts, the legislature
31 and the governor;
- 32 (10) inform and educate children, their guardians and families of the
33 child's rights and entitlements pursuant to state and federal laws; and
- 34 (11) fulfill responsibilities in this section guided by generally
35 accepted principles of best practices in child welfare.
- 36 (b) To fulfill the purpose of the office pursuant to section 2, and
37 amendments thereto, the child advocate may:
 - 38 (1) Access records as provided in K.S.A. 38-2201 et seq. and 38-2301
39 et seq., and amendments thereto, related to complaints received;
 - 40 (2) access all written reports of child abuse and neglect maintained by
41 the secretary for children and families related to complaints received;
 - 42 (3) communicate privately with any child or child's siblings, after
43 consultation with treatment professionals and service providers, and with

1 anyone working with the child, including the family, relatives, employees
2 of the Kansas department for children and families or the department's
3 contracting entities, Kansas department for aging and disability services,
4 juvenile courts and other persons or entities providing treatment and child
5 welfare services to such child;

6 (4) work in conjunction with guardians ad litem;

7 (5) file any of the office's findings or reports regarding a parent or
8 child with the appropriate court with jurisdiction over a child in need of
9 care case involving such child, and issue recommendations regarding the
10 disposition of an investigation to the court and to the investigating agency,
11 but shall not intervene in divorce, protection from abuse, juvenile offender,
12 child in need of care, administrative hearings, civil or criminal
13 proceedings;

14 (6) file amicus curiae briefs of the findings and recommendations of
15 the office in appeals from child in need of care matters;

16 (7) utilize the resources of the office of the attorney general, as
17 necessary, to carry out any duties of the child advocate and receive legal
18 counsel or services;

19 (8) initiate meetings with personnel from the Kansas department for
20 children and families or the department's contracting entities, Kansas
21 department for aging and disability services and juvenile courts;

22 (9) apply for and accept grants, gifts and bequests of moneys from
23 other state, interstate or federal agencies, independent authorities, private
24 firms, individuals or foundations to carry out the child advocate's duties
25 and responsibilities, and such moneys shall be deposited in the office of
26 the child advocate fund and shall be expended in accordance with the
27 provisions of the grant or bequest;

28 (10) establish local panels on a regional or county basis to adequately
29 and efficiently carry out the functions and duties of the office and address
30 complaints in a timely manner as appropriate; and

31 (11) conduct an independent review of any policy, procedure or
32 practice that is the subject of a complaint submitted as provided in this
33 section.

34 (c) Nothing in this section shall create a just cause for delay of court
35 proceedings or excuse any court, county attorney or district attorney,
36 guardian ad litem or other agency from their duties in proceedings related
37 to a child.

38 (d) No review of any complaint shall require any licensed
39 professional to engage or not engage in conduct required or prohibited by
40 any governing professional code of responsibility or conduct.

41 New Sec. 5. (a) The office shall be administered by the child
42 advocate, who shall be appointed by the child advocate advisory board and
43 subject to confirmation by the senate as provided in K.S.A. 75-4315b, and

1 amendments thereto, for a term of four years. The first child advocate shall
2 be appointed and confirmed on or before January 1, 2024, and on or before
3 January 1 every four years thereafter.

4 (b) The child advocate shall be a person that either holds a current
5 relevant license that would authorize the individual to work as a licensed
6 professional as a case manager, behavioral health professional or attorney
7 for a child in need of care or has seven or more years of experience in the
8 field of child welfare. The child advocate shall not be a current, or have
9 been employed within the past 12 months as an executive or manager of
10 any program or agency or contracting agency subject to oversight by the
11 office.

12 (c) The office of the child advocate shall be under the direct
13 supervision of the child advocate.

14 (d) The child advocate may appoint employees as the office may
15 require to fulfill the office's duties. Employees in the office shall be in the
16 unclassified service and serve at the pleasure of the child advocate. The
17 child advocate shall fix the compensation of each such employee subject to
18 appropriations therefor.

19 (e) Any employee of the office shall be immune from suit and
20 liability, in an official capacity and personally, for the good faith
21 performance of duties prescribed in sections 1 through 8, and amendments
22 thereto.

23 New Sec. 6. (a) On or before the first day of the regular legislative
24 session in 2024, and each year thereafter, the child advocate shall submit
25 an annual report to the governor, the house of representatives standing
26 committee on child welfare and foster care, the senate standing committee
27 on public health and welfare, or any successor committees thereof, the
28 joint committee on child welfare system oversight and the office of
29 judicial administration.

30 (b) Such report shall include, but not be limited to, the number of
31 complaints received by the office, the disposition of such complaints, the
32 number of children involved in such complaints, the state agencies or other
33 entities named in such complaints, whether such complaints were found to
34 be supported or unsupported and any recommendations for improving the
35 delivery of child welfare services to reduce complaints or improving the
36 function of the office and recommendations for changes in Kansas law.

37 (c) Such reports shall not include names or personally identifiable
38 information of children, guardians or families in complaints.

39 (d) Such reports are not subject to change by the the house of
40 representatives standing committee on child welfare and foster care, the
41 senate standing committee on public health and welfare, or any successor
42 committees thereof, or the joint committee on child welfare system
43 oversight except that any such committee may request additional

1 information not subject to subsection (f) that was gathered as part of the
2 report but was not presented in the written report may be added to
3 subsequent copies of the report or may be distributed separately.

4 (e) Annual reports submitted as provided in this section shall not be
5 disclosed pursuant to the provisions of the open records act or any other
6 law until:

7 (1) The time of the next scheduled meeting of either the house of
8 representatives standing committee on child welfare and foster care or the
9 senate standing committee on public health and welfare, or any successor
10 committees thereof, held after distribution of the report to members of
11 such committee; or

12 (2) the time of the next scheduled meeting of another legislative
13 committee held after distribution of the report to the members of such
14 committee as authorized by the house of representatives standing
15 committee on child welfare and foster care or the senate standing
16 committee on public health and welfare, or any successor committees
17 thereof.

18 (f) The provisions of this subsection providing for confidentiality of
19 records shall expire on July 1, 2028, unless the legislature reviews and acts
20 to continue such provisions pursuant to K.S.A. 45-229, and amendments
21 thereto, prior to July 1, 2028.

22 (g) For any information or records obtained from a state agency or
23 other entity pursuant to sections 1 through 8, and amendments thereto, the
24 office shall be subject to K.S.A. 38-2201 et seq. and 38-2301 et seq., and
25 amendments thereto, and any federal statutory disclosure restrictions and
26 confidentiality requirements that are applicable to the state agency or other
27 entity providing such information to the office. Information or records
28 obtained shall not be further disclosed.

29 New Sec. 7. (a) The reports, statements, witness testimony, affidavits,
30 memoranda, proceedings, findings and other records or data submitted to,
31 considered by or generated by the office of the child advocate, whether
32 oral or written, shall be privileged and shall not be disclosed to any person
33 or entity, be admissible in any civil action, administrative proceeding or
34 disciplinary board of this state, be subject to discovery, subpoena or other
35 means of legal compulsion for their release to any person or entity or be
36 admissible in evidence in any judicial or administrative proceeding, unless
37 the child advocate is already a party to such proceedings. Information
38 contained in such records shall not be discoverable or admissible at trial in
39 the form of testimony by the child advocate, an individual who is an
40 employee of the office of the child advocate or individual acting on behalf
41 of the child advocate, unless such individual is already a party to such
42 proceedings.

43 (b) The child advocate, any employee of the office of the child

1 advocate or person acting on behalf of the child advocate shall be immune
2 from civil liability, either personally or in their official capacity, including,
3 but not limited to, claims of damage to or loss of property or personal
4 injury that are caused by or arising out of the performance of duties of the
5 office. This subsection shall not be construed to protect from suit or
6 liability when caused by the intentional or willful or wanton misconduct of
7 such persons.

8 (c) (1) No person shall take reprisal or retaliatory action against any
9 recipient of child welfare services or employee of the Kansas department
10 for children and families and the department's contracting entities, the
11 Kansas department for aging and disability services, the department of
12 corrections, the department of health and environment and juvenile courts
13 for any communication made or information given to the office for the
14 purpose of compliance with sections 1 through 8, and amendments thereto.
15 Any person who knowingly violates the provisions of this paragraph shall
16 be guilty of a class A nonperson misdemeanor.

17 (2) No employee of the office of the child advocate shall:

18 (A) Knowingly disclose false information; or

19 (B) disclose confidential information without lawful authority.

20 (3) Disclosure or use of any such information received by the office
21 of the child advocate or of any record containing such information, for any
22 purpose other than that provided for in law shall constitute grounds for
23 removal from office or termination of employment.

24 (d) As used in this section, "reprisal or retaliatory action" shall
25 include, but not be limited to:

26 (1) Letters of reprimand or unsatisfactory performance evaluations;

27 (2) transfer;

28 (3) demotion;

29 (4) reduction in pay;

30 (5) denial of promotion;

31 (6) suspension;

32 (7) dismissal; and

33 (8) denial of employment.

34 New Sec. 8. (a) The annual budget request of the office shall be
35 prepared by the child advocate and presented to the child advocate
36 advisory board. Upon approval by the child advocate advisory board, the
37 child advocate shall submit such budget request to the director of the
38 budget as other budget requests are submitted pursuant K.S.A. 75-3717,
39 and amendments thereto.

40 (b) There is established in the state treasury the office of the child
41 advocate fund. Such fund shall be administered by the child advocate. All
42 expenditures from appropriations to the office shall be made upon warrants
43 of the director of accounts and reports issued pursuant to vouchers

1 approved by the child advocate or the child advocate's designee. All
2 moneys received by or for the child advocate shall be deposited in the state
3 treasury in accordance with the provisions of K.S.A. 75-4215, and
4 amendments thereto.

5 Sec. 9. K.S.A. 2022 Supp. 38-2211 is hereby amended to read as
6 follows: 38-2211. (a) *Access to the official file*. The following persons or
7 entities shall have access to the official file of a child in need of care
8 proceeding pursuant to this code:

9 (1) The court having jurisdiction over the proceedings, including the
10 presiding judge and any court personnel designated by the judge.

11 (2) The parties to the proceedings and their attorneys.

12 (3) The guardian ad litem for a child who is the subject of the
13 proceeding.

14 (4) ~~A court-appointed~~ *court-appointed* special advocate for a child
15 who is the subject of the proceeding or a paid staff member of a court
16 appointed special advocate program.

17 (5) Any individual, or any public or private agency or institution,
18 having custody of the child under court order or providing educational,
19 medical or mental health services to the child or any placement provider or
20 potential placement provider as determined by the secretary or court
21 services officer.

22 (6) A citizen review board.

23 (7) The secretary of corrections or any agents designated by the
24 secretary of corrections.

25 (8) Any county or district attorney from another jurisdiction with a
26 pending child in need of care matter regarding any of the same parties.

27 (9) Any other person when authorized by a court order, subject to any
28 conditions imposed by the order.

29 (10) The commission on judicial performance in the discharge of the
30 commission's duties pursuant to article 32 of chapter 20 of the Kansas
31 Statutes Annotated, and amendments thereto.

32 (11) An investigating law enforcement agency.

33 (12) *The office of the child advocate*.

34 (b) *Access to the social file*. The following persons or entities shall
35 have access to the social file of a child in need of care proceeding pursuant
36 to this code:

37 (1) The court having jurisdiction over the proceeding, including the
38 presiding judge and any court personnel designated by the judge.

39 (2) The attorney for a party to the proceeding or the person or persons
40 designated by an Indian tribe that is a party.

41 (3) The guardian ad litem for a child who is the subject of the
42 proceeding.

43 (4) ~~A court-appointed~~ *court-appointed* special advocate for a child

1 who is the subject of the proceeding or a paid staff member of a court
2 appointed special advocate program.

3 (5) A citizen review board.

4 (6) The secretary.

5 (7) The secretary of corrections or any agents designated by the
6 secretary of corrections.

7 (8) Any county or district attorney from another jurisdiction with a
8 pending child in need of care matter regarding any of the same parties or
9 interested parties.

10 (9) Any other person when authorized by a court order, subject to any
11 conditions imposed by the order.

12 (10) An investigating law enforcement agency.

13 (11) *The office of the child advocate.*

14 (c) *Preservation of records.* The Kansas state historical society shall
15 be allowed to take possession for preservation in the state archives of any
16 court records related to proceedings under the Kansas code for care of
17 children whenever such records otherwise would be destroyed. No such
18 records in the custody of the Kansas state historical society shall be
19 disclosed directly or indirectly to anyone for 70 years after creation of the
20 records, except as provided in subsections (a) and (b). Pursuant to
21 subsections ~~(a)(9)~~ (a)(10) and ~~(b)(9)~~ (b)(10), a judge of the district court
22 may allow inspection for research purposes of any court records in the
23 custody of the Kansas state historical society related to proceedings under
24 the Kansas code for care of children.

25 Sec. 10. K.S.A. 2022 Supp. 38-2212 is hereby amended to read as
26 follows: 38-2212. (a) *Principle of appropriate access.* Information
27 contained in confidential agency records concerning a child alleged or
28 adjudicated to be in need of care may be disclosed as provided in this
29 section and shall be disclosed as provided in subsection (e). Disclosure
30 shall in all cases be guided by the principle of providing access only to
31 persons or entities with a need for information that is directly related to
32 achieving the purposes of this code.

33 (b) *Free exchange of information.* Pursuant to K.S.A. 38-2210, and
34 amendments thereto, the secretary and juvenile intake and assessment
35 agencies shall participate in the free exchange of information concerning a
36 child who is alleged or adjudicated to be in need of care.

37 (c) *Necessary access.* The following persons or entities shall have
38 access to information from agency records. Access shall be limited to
39 information reasonably necessary to carry out their lawful responsibilities,
40 to maintain their personal safety and the personal safety of individuals in
41 their care, or to educate, diagnose, treat, care for or protect a child alleged
42 to be in need of care. Information authorized to be disclosed pursuant to
43 this subsection shall not contain information that identifies a reporter of a

1 child who is alleged or adjudicated to be a child in need of care.

2 (1) A child named in the report or records, a guardian ad litem
3 appointed for the child and the child's attorney.

4 (2) A parent or other person responsible for the welfare of a child, or
5 such person's legal representative.

6 (3) A court-appointed special advocate for a child, a citizen review
7 board or other advocate that reports to the court.

8 (4) A person licensed to practice the healing arts or mental health
9 profession in order to diagnose, care for, treat or supervise:

10 (A) A child whom such service provider reasonably suspects may be
11 in need of care;

12 (B) a member of the child's family; or

13 (C) a person who allegedly abused or neglected the child.

14 (5) A person or entity licensed or registered by the secretary of health
15 and environment or approved by the secretary for children and families to
16 care for, treat or supervise a child in need of care.

17 (6) A coroner or medical examiner when such person is determining
18 the cause of death of a child.

19 (7) The state child death review board established under K.S.A. 22a-
20 243, and amendments thereto.

21 (8) An attorney for a private party who files a petition pursuant to
22 K.S.A. 38-2233(b), and amendments thereto.

23 (9) A foster parent, prospective foster parent, permanent custodian,
24 prospective permanent custodian, adoptive parent or prospective adoptive
25 parent. In order to assist such persons in making an informed decision
26 regarding acceptance of a particular child, to help the family anticipate
27 problems that may occur during the child's placement, and to help the
28 family meet the needs of the child in a constructive manner, the secretary
29 shall seek and shall provide the following information to such persons as
30 the information becomes available to the secretary:

31 (A) Strengths, needs and general behavior of the child;

32 (B) circumstances that necessitated placement;

33 (C) information about the child's family and the child's relationship to
34 the family that may affect the placement;

35 (D) important life experiences and relationships that may affect the
36 child's feelings, behavior, attitudes or adjustment;

37 (E) medical history of the child, including third-party coverage that
38 may be available to the child; and

39 (F) education history, to include present grade placement, special
40 strengths and weaknesses.

41 (10) The state protection and advocacy agency as provided by K.S.A.
42 65-5603(a)(10) or ~~K.S.A.~~ 74-5515(a)(2)(A) and (B), and amendments
43 thereto.

1 (11) Any educational institution to the extent necessary to enable the
2 educational institution to provide the safest possible environment for its
3 pupils and employees.

4 (12) Any educator to the extent necessary to enable the educator to
5 protect the personal safety of the educator and the educator's pupils.

6 (13) Any other federal, state or local government executive branch
7 entity or any agent of such entity, having a need for such information in
8 order to carry out such entity's responsibilities under the law to protect
9 children from abuse and neglect.

10 (14) *The office of the child advocate.*

11 (d) *Specified access.* The following persons or entities shall have
12 access to information contained in agency records as specified.
13 Information authorized to be disclosed pursuant to this subsection shall not
14 contain information that identifies a reporter of a child who is alleged or
15 adjudicated to be a child in need of care.

16 (1) Information from confidential agency records of the Kansas
17 department for children and families, a law enforcement agency or any
18 juvenile intake and assessment worker of a child alleged or adjudicated to
19 be in need of care shall be available to members of the standing house or
20 senate committee on judiciary, house committee on corrections and
21 juvenile justice, house committee on appropriations, senate committee on
22 ways and means, legislative post audit committee and any joint committee
23 with authority to consider children's and families' issues, when carrying
24 out such member's or committee's official functions in accordance with
25 K.S.A. 75-4319, and amendments thereto, in a closed or executive
26 meeting. Except in limited conditions established by $\frac{2}{3}$ of the members of
27 such committee, records and reports received by the committee shall not
28 be further disclosed. Unauthorized disclosure may subject such member to
29 discipline or censure from the house of representatives or senate. The
30 secretary for children and families shall not summarize the outcome of
31 department actions regarding a child alleged to be a child in need of care
32 in information available to members of such committees.

33 (2) The secretary for children and families may summarize the
34 outcome of department actions regarding a child alleged to be a child in
35 need of care to a person having made such report.

36 (3) Information from confidential reports or records of a child alleged
37 or adjudicated to be a child in need of care may be disclosed to the public
38 when:

39 (A) The individuals involved or their representatives have given
40 express written consent; or

41 (B) the investigation of the abuse or neglect of the child or the filing
42 of a petition alleging a child to be in need of care has become public
43 knowledge, provided, however, that the agency shall limit disclosure to

1 confirmation of procedural details relating to the handling of the case by
2 professionals.

3 (e) *Law enforcement access.* The secretary shall disclose confidential
4 agency records of a child alleged or adjudicated to be a child in need of
5 care, as described in K.S.A. 38-2209, and amendments thereto, to the law
6 enforcement agency investigating the alleged or substantiated report or
7 investigation of abuse or neglect, regardless of the disposition of such
8 report or investigation. Such records shall include, but not be limited to,
9 any information regarding such report or investigation, records of past
10 reports or investigations concerning such child and such child's siblings
11 and the perpetrator or alleged perpetrator and the name and contact
12 information of the reporter or persons alleging abuse or neglect and case
13 managers, investigators or contracting ~~agency~~ *entity* employees assigned to
14 or investigating such report. Such records shall only be used for the
15 purposes of investigating the alleged or substantiated report or
16 investigation of abuse or neglect.

17 (f) *Court order.* Notwithstanding the provisions of this section, a
18 court of competent jurisdiction, after in camera inspection, may order
19 disclosure of confidential agency records pursuant to a determination that
20 the disclosure is in the best interests of the child who is the subject of the
21 reports or that the records are necessary for the proceedings of the court.
22 The court shall specify the terms of disclosure and impose appropriate
23 limitations.

24 (g) (1) Notwithstanding any other provision of law to the contrary,
25 except as provided in paragraph (6), in the event that child abuse or
26 neglect results in a child fatality or near fatality, reports or records of a
27 child alleged or adjudicated to be in need of care received by the secretary,
28 a law enforcement agency or any juvenile intake and assessment worker
29 shall become a public record and subject to disclosure pursuant to K.S.A.
30 45-215, and amendments thereto.

31 (2) Within seven days of receipt of a request in accordance with the
32 procedures adopted under K.S.A. 45-220, and amendments thereto, the
33 secretary shall notify any affected individual that an open records request
34 has been made concerning such records. The secretary or any affected
35 individual may file a motion requesting the court to prevent disclosure of
36 such record or report, or any select portion thereof. Notice of the filing of
37 such motion shall be provided to all parties requesting the records or
38 reports, and such party or parties shall have a right to hearing, upon
39 request, prior to the entry of any order on such motion. If the affected
40 individual does not file such motion within seven days of notification, and
41 the secretary has not filed a motion, the secretary shall release the reports
42 or records. If such motion is filed, the court shall consider the effect such
43 disclosure may have upon an ongoing criminal investigation, a pending

1 prosecution, or the privacy of the child, if living, or the child's siblings,
2 parents or guardians, and the public's interest in the disclosure of such
3 records or reports. The court shall make written findings on the record
4 justifying the closing of the records and shall provide a copy of the journal
5 entry to the affected parties and the individual requesting disclosure
6 pursuant to the Kansas open records act, K.S.A. 45-215 et seq., and
7 amendments thereto.

8 (3) Notwithstanding the provisions of paragraph (2), in the event that
9 child abuse or neglect results in a child fatality, the secretary shall release
10 the following information in response to an open records request made
11 pursuant to the Kansas open records act, within seven business days of
12 receipt of such request, as allowed by applicable law:

- 13 (A) Age and sex of the child;
- 14 (B) date of the fatality;
- 15 (C) a summary of any previous reports of abuse or neglect received
16 by the secretary involving the child, along with the findings of such
17 reports; and
- 18 (D) any department recommended services provided to the child.

19 (4) Notwithstanding the provisions of paragraph (2), in the event that
20 a child fatality occurs while such child was in the custody of the secretary
21 for children and families, the secretary shall release the following
22 information in response to an open records request made pursuant to the
23 Kansas open records act, within seven business days of receipt of such
24 request, as allowed by applicable law:

- 25 (A) Age and sex of the child;
- 26 (B) date of the fatality; and
- 27 (C) a summary of the facts surrounding the death of the child.

28 (5) For reports or records requested pursuant to this subsection, the
29 time limitations specified in this subsection shall control to the extent of
30 any inconsistency between this subsection and K.S.A. 45-218, and
31 amendments thereto. As used in this section, "near fatality" means an act
32 that, as certified by a person licensed to practice medicine and surgery,
33 places the child in serious or critical condition.

34 (6) Nothing in this subsection shall allow the disclosure of reports,
35 records or documents concerning the child and such child's biological
36 parents that were created prior to such child's adoption. Nothing ~~herein~~ *in*
37 *this section* is intended to require that an otherwise privileged
38 communication lose its privileged character.

39 Sec. 11. K.S.A. 38-2213 is hereby amended to read as follows: 38-
40 2213. (a) *Principle of limited disclosure.* Information contained in
41 confidential law enforcement records concerning a child alleged or
42 adjudicated to be in need of care may be disclosed as provided in this
43 section. Disclosure shall in all cases be guided by the principle of

1 providing access only to persons or entities with a need for information
2 that is directly related to achieving the purposes of this code.

3 (b) *Free exchange of information.* Pursuant to K.S.A. 38-2210, and
4 amendments thereto, a law enforcement agency shall participate in the free
5 exchange of information concerning a child who is alleged or adjudicated
6 to be in need of care.

7 (c) *Access to information in law enforcement records.* In order to
8 discharge their official duties, the following persons or entities shall have
9 access to confidential law enforcement records concerning a child alleged
10 or adjudicated to be in need of care.

11 (1) The court having jurisdiction over the proceedings, including the
12 presiding judge and any court personnel designated by the judge.

13 (2) The secretary.

14 (3) ~~The commissioner of juvenile justice~~ *secretary of corrections.*

15 (4) Law enforcement officers or county or district attorneys or their
16 staff.

17 (5) Any juvenile intake and assessment worker.

18 (6) Members of a court-appointed multidisciplinary team.

19 (7) *The office of the child advocate.*

20 (8) Any other federal, state or local government executive branch
21 entity, or any agent of such entity, having a need for such information in
22 order to carry out such entity's responsibilities under law to protect
23 children from abuse and neglect.

24 ~~(8)(9)~~ Persons or entities allowed access pursuant to ~~subsection (f)~~ of
25 K.S.A. 38-2212(f), and amendments thereto.

26 (d) *Necessary access.* The following persons or entities shall have
27 access to information from law enforcement records when reasonably
28 necessary to carry out their lawful responsibilities, to maintain their
29 personal safety and the personal safety of individuals in their care, or to
30 educate, diagnose, treat, care for or protect a child alleged or adjudicated
31 to be in need of care. Information authorized to be disclosed in this
32 subsection shall not contain information ~~which~~ *that* identifies a reporter of
33 a child alleged or adjudicated to be a child in need of care.

34 (1) Any individual, or public or private agency authorized by a
35 properly constituted authority to diagnose, care for, treat or supervise a
36 child who is the subject of a report or record of child abuse or neglect,
37 including physicians, psychiatrists, nurses, nurse practitioners,
38 psychologists, licensed social workers, child development specialists,
39 physician assistants, community mental health workers, alcohol and drug
40 abuse counselors, and licensed or registered child care providers.

41 (2) School administrators shall have access to but shall not copy law
42 enforcement records and may disclose information to teachers,
43 paraprofessionals and other school personnel as necessary to meet the

1 educational needs of the child or to protect the safety of students and
2 school employees.

3 (3) The department of health and environment or persons authorized
4 by the department of health and environment pursuant to K.S.A. 65-512,
5 and amendments thereto, for the purposes of carrying out responsibilities
6 relating to licensure or registration of child care providers as required by
7 article 5 of chapter 65 of the Kansas Statutes Annotated, and amendments
8 thereto.

9 (e) *Legislative access.* Information from law enforcement records of a
10 child alleged or adjudicated to be in need of care shall be available to
11 members of the standing house or senate committee on judiciary, house
12 committee on corrections and juvenile justice, house committee on
13 appropriations, senate committee on ways and means, legislative post audit
14 committee and any joint committee with authority to consider children's
15 and families' issues, when carrying out such member's or committee's
16 official functions in accordance with K.S.A. 75-4319, and amendments
17 thereto, in a closed or executive meeting. Except in limited conditions
18 established by $\frac{2}{3}$ of the members of such committee, records and reports
19 received by the committee shall not be further disclosed. Unauthorized
20 disclosure may subject such member to discipline or censure from the
21 house of representatives or senate.

22 (f) *Court order.* Notwithstanding the provisions of this section, a
23 court of competent jurisdiction, after in camera inspection, may order
24 disclosure of confidential law enforcement records pursuant to a
25 determination that the disclosure is in the best interests of the child who is
26 the subject of the reports or that the records are necessary for the
27 proceedings of the court and otherwise admissible as evidence. The court
28 shall specify the terms of disclosure and impose appropriate limitations.

29 Sec. 12. K.S.A. 38-2309 is hereby amended to read as follows: 38-
30 2309. (a) *Official file.* The official file of proceedings pursuant to this code
31 shall consist of the complaint, process, service of process, orders, writs and
32 journal entries reflecting hearings held, judgments and decrees entered by
33 the court. The official file shall be kept separate from other records of the
34 court.

35 (b) The official file shall be open for public inspection, unless the
36 judge determines that opening the official file for public inspection is not
37 in the best interests of a juvenile who is less than 14 years of age.
38 Information identifying victims and alleged victims of sex offenses, as
39 defined in article 35 of chapter 21 of the Kansas Statutes Annotated, prior
40 to their repeal, or article 55 of chapter 21 of the Kansas Statutes
41 Annotated, or K.S.A. 2022 Supp. 21-6419 through 21-6422, and
42 amendments thereto, or human trafficking or aggravated human
43 trafficking, as defined in K.S.A. 21-3446 or 21-3447, prior to their repeal,

1 or K.S.A. 2022 Supp. 21-5426, and amendments thereto, shall not be
 2 disclosed or open to public inspection under any circumstances. Nothing in
 3 this section shall prohibit the victim or alleged victim of any sex offense
 4 from voluntarily disclosing such victim's identity. An official file closed
 5 pursuant to this section and information identifying the victim or alleged
 6 victim of any sex offense shall be disclosed only to the following:

7 (1) A judge of the district court and members of the staff of the court
 8 designated by the judge;

9 (2) parties to the proceedings and their attorneys;

10 (3) any individual or any public or private agency or institution:

11 (A) Having custody of the juvenile under court order; or

12 (B) providing educational, medical or mental health services to the
 13 juvenile;

14 (4) the juvenile's court appointed special advocate;

15 (5) any placement provider or potential placement provider as
 16 determined by the commissioner or court services officer;

17 (6) law enforcement officers or county or district attorneys, or their
 18 staff, when necessary for the discharge of their official duties;

19 (7) the Kansas racing commission, upon written request of the
 20 commission chairperson, for the purpose provided by K.S.A. 74-8804, and
 21 amendments thereto, except that information identifying the victim or
 22 alleged victim of any sex offense shall not be disclosed pursuant to this
 23 subsection;

24 (8) juvenile intake and assessment workers;

25 (9) the commissioner;

26 (10) *the office of the child advocate*;

27 (11) any other person when authorized by a court order, subject to any
 28 conditions imposed by the order; and

29 ~~(12)~~ (12) the commission on judicial performance in the discharge of
 30 the commission's duties pursuant to article 32 of chapter 20 of the Kansas
 31 Statutes Annotated, and amendments thereto.

32 (c) (1) *Social file*. Reports and information received by the court,
 33 other than the official file, shall be privileged and open to inspection only
 34 by:

35 (A) Attorneys for the parties;;

36 (B) juvenile intake and assessment workers;;

37 (C) ~~court appointed~~ court-appointed special advocates;;

38 (D) juvenile community corrections officers;;

39 (E) the juvenile's guardian ad litem, if any;;

40 (F) *the office of the child advocate*; or ~~upon~~

41 (G) *any other person when authorized by the order of a judge of the*
 42 *district court or appellate court.*

43 (2) The reports shall not be further disclosed without approval of the

1 court or by being presented as admissible evidence.

2 (d) *Preservation of records.* The Kansas state historical society shall
3 be allowed to take possession for preservation in the state archives of any
4 court records related to proceedings under the Kansas juvenile justice code
5 or the revised Kansas juvenile justice code whenever such records
6 otherwise would be destroyed. The Kansas state historical society shall
7 make available for public inspection any unexpunged docket entry or
8 official file in its custody concerning any juvenile 14 or more years of age
9 at the time an offense is alleged to have been committed by the juvenile.
10 No other such records in the custody of the Kansas state historical society
11 shall be disclosed directly or indirectly to anyone for 70 years after
12 creation of the records, except as provided in subsections (b) and (c). A
13 judge of the district court may allow inspection for research purposes of
14 any court records in the custody of the Kansas state historical society
15 related to proceedings under the Kansas juvenile justice code or the
16 revised Kansas juvenile justice code.

17 (e) Relevant information, reports and records, shall be made available
18 to the department of corrections upon request, and a showing that the
19 former juvenile has been convicted of a crime and placed in the custody of
20 the secretary of corrections.

21 Sec. 13. K.S.A. 38-2310 is hereby amended to read as follows: 38-
22 2310. (a) All records of law enforcement officers and agencies and
23 municipal courts concerning an offense committed or alleged to have been
24 committed by a juvenile under 14 years of age shall be kept readily
25 distinguishable from criminal and other records and shall not be disclosed
26 to anyone except:

27 (1) The judge of the district court and members of the staff of the
28 court designated by the judge;

29 (2) parties to the proceedings and their attorneys;

30 (3) the Kansas department for children and families;

31 (4) the juvenile's court appointed special advocate, any officer of a
32 public or private agency or institution or any individual having custody of
33 a juvenile under court order or providing educational, medical or mental
34 health services to a juvenile;

35 (5) any educational institution, to the extent necessary to enable the
36 educational institution to provide the safest possible environment for its
37 pupils and employees;

38 (6) any educator, to the extent necessary to enable the educator to
39 protect the personal safety of the educator and the educator's pupils;

40 (7) law enforcement officers or county or district attorneys, or their
41 staff, when necessary for the discharge of their official duties;

42 (8) the central repository, as defined by K.S.A. 22-4701, and
43 amendments thereto, for use only as a part of the juvenile offender

1 information system established under K.S.A. 38-2326, and amendments
2 thereto;

3 (9) juvenile intake and assessment workers;

4 (10) the department of corrections;

5 (11) juvenile community corrections officers;

6 (12) the interstate compact for juveniles compact administrator for
7 the purpose of carrying out the responsibilities related to the interstate
8 compact for juveniles;

9 (13) *the office of the child advocate*;

10 (14) any other person when authorized by a court order, subject to
11 any conditions imposed by the order; and

12 ~~(14)~~(15) as provided in subsection (c).

13 (b) The provisions of this section shall not apply to records
14 concerning:

15 (1) A violation, by a person 14 or more years of age, of any provision
16 of chapter 8 of the Kansas Statutes Annotated, and amendments thereto, or
17 of any city ordinance or county resolution ~~which~~ *that* relates to the
18 regulation of traffic on the roads, highways or streets or the operation of
19 self-propelled or nonself-propelled vehicles of any kind;

20 (2) a violation, by a person 16 or more years of age, of any provision
21 of chapter 32 of the Kansas Statutes Annotated, and amendments thereto;
22 or

23 (3) an offense for which the juvenile is prosecuted as an adult.

24 (c) All records of law enforcement officers and agencies and
25 municipal courts concerning an offense committed or alleged to have been
26 committed by a juvenile 14 or more years of age shall be subject to the
27 same disclosure restrictions as the records of adults. Information
28 identifying victims and alleged victims of sex offenses, as defined in
29 article 35 of chapter 21 of the Kansas Statutes Annotated, prior to their
30 repeal, or article 55 of chapter 21 of the Kansas Statutes Annotated, and
31 amendments thereto, K.S.A. 2022 Supp. 21-6419 through 21-6422, and
32 amendments thereto, or human trafficking or aggravated human
33 trafficking, as defined in K.S.A. 21-3446 or 21-3447, prior to their repeal,
34 or K.S.A. 2022 Supp. 21-5426, and amendments thereto, shall not be
35 disclosed or open to public inspection under any circumstances. Nothing in
36 this section shall prohibit the victim or any alleged victim of any sex
37 offense from voluntarily disclosing such victim's identity.

38 (d) Relevant information, reports and records, shall be made available
39 to the department of corrections upon request and a showing that the
40 former juvenile has been convicted of a crime and placed in the custody of
41 the secretary of corrections.

42 (e) All records, reports and information obtained as a part of the
43 juvenile intake and assessment process for juveniles shall be confidential,

1 and shall not be disclosed except as provided by statutory law and rules
2 and regulations promulgated by the secretary.

3 (1) Any court of record may order the disclosure of such records,
4 reports and other information to any person or entity.

5 (2) The head of any juvenile intake and assessment program, certified
6 by the secretary, may authorize disclosure of such records, reports and
7 other information to:

8 (A) A person licensed to practice the healing arts who has before that
9 person a juvenile whom the person reasonably suspects may be abused or
10 neglected;

11 (B) a court-appointed special advocate for a juvenile or an agency
12 having the legal responsibility or authorization to care for, treat or
13 supervise a juvenile;

14 (C) a parent or other person responsible for the welfare of a juvenile,
15 or such person's legal representative, with protection for the identity of
16 persons reporting and other appropriate persons;

17 (D) the juvenile, the attorney and a guardian ad litem, if any, for such
18 juvenile;

19 (E) the police or other law enforcement agency;

20 (F) an agency charged with the responsibility of preventing or
21 treating physical, mental or emotional abuse or neglect or sexual abuse of
22 children, if the agency requesting the information has standards of
23 confidentiality as strict or stricter than the requirements of the Kansas code
24 for care of children or the revised Kansas juvenile justice code, whichever
25 is applicable;

26 (G) members of a multidisciplinary team under this code;

27 (H) an agency authorized by a properly constituted authority to
28 diagnose, care for, treat or supervise a child who is the subject of a report
29 or record of child abuse or neglect;

30 (I) any individual, or public or private agency authorized by a
31 properly constituted authority to diagnose, care for, treat or supervise a
32 juvenile who is the subject of a report or record of child abuse or neglect,
33 specifically including the following: Physicians, psychiatrists, nurses,
34 nurse practitioners, psychologists, licensed social workers, child
35 development specialists, physician assistants, community mental health
36 workers, addiction counselors and licensed or registered child care
37 providers;

38 (J) a citizen review board pursuant to K.S.A. 38-2207, and
39 amendments thereto;

40 (K) an educational institution to the extent necessary to enable such
41 institution to provide the safest possible environment for pupils and
42 employees of the institution;

43 (L) any educator to the extent necessary for the protection of the

1 educator and pupils;

2 (M) any juvenile intake and assessment worker of another certified
3 juvenile intake and assessment program; ~~and~~

4 (N) the interstate compact for juveniles compact administrator for the
5 purpose of carrying out the responsibilities related to the interstate
6 compact for juveniles; *and*

7 (*O*) *the office of the child advocate.*

8 Sec. 14. K.S.A. 38-2213, 38-2309 and 38-2310 and K.S.A. 2022
9 Supp. 38-2211 and 38-2212 are hereby repealed.

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