

As Amended by House Committee

Session of 2021

HOUSE BILL No. 2345

By Representatives Ousley, Baker, Carlson, Concannon, Curtis, Esau, Finney, Helmer, Hoheisel, Hoyer, Humphries, T. Johnson, Neighbor, Penn, Resman, Rhiley, S. Ruiz and Vaughn

2-10

1 AN ACT concerning children and minors; relating to the legislature;  
2 establishing the office of the child advocate for children's protection  
3 and services; prescribing certain powers, duties and functions;  
4 amending K.S.A. 2020 Supp. 38-2211, 38-2212, 38-2213, 38-2309 and  
5 38-2310 and repealing the existing sections.  
6

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

8 New Section 1. (a) As used in sections 1 through 5, and amendments  
9 thereto:

10 (1) "Child" means any child who is in the custody of the secretary for  
11 children and families ~~or receiving child welfare services from the Kansas~~  
12 ~~department for children and families or the department's grantees, Kansas~~  
13 ~~department for aging and disability services or the office of judicial~~  
14 ~~administration~~ or who may be alleged to be a child in need of care as  
15 **provided in K.S.A. 2020 Supp. 38-2201 et seq., and amendments**  
16 **thereto;** and

17 (2) "office" means the office of the child advocate for children's  
18 protection and services within the legislative branch that includes the child  
19 advocate and staff.

20 (b) (1) There is hereby established the office of the child advocate for  
21 children's protection and services within the legislative branch of the  
22 government.

23 (2) The purpose of the office is to ensure that children and families  
24 receive adequate coordination of child welfare services, for child  
25 maltreatment prevention, protection and care through services offered by  
26 the Kansas department for children and families, the Kansas department  
27 for aging and disability services, the department of corrections, the  
28 department of health and environment ~~and the office of judicial~~  
29 ~~administration~~ **juvenile courts**. The child advocate shall perform the  
30 duties required by sections 1 through 5, and amendments thereto,  
31 independently from such departments and offices under review by the  
32 office and report directly to the legislature.

33 (c) (1) The office shall be administered by the child advocate, who  
34 shall be jointly appointed by the governor and **the chief justice of the**

1 **supreme court**, subject to confirmation by the senate as provided in  
2 K.S.A. 75-4315b, and amendments thereto, for a term of six years ~~and or~~  
3 until a successor has been appointed and confirmed. The child advocate  
4 will serve under the direction of the legislature.

5 (2) The child advocate shall be a person that either holds a current  
6 relevant license that would authorize the individual to work as a licensed  
7 professional as a case manager, behavioral health professional or attorney  
8 for a child in need of care or has seven or more years of experience in the  
9 field of child welfare.

10 (3) The child advocate shall be in the unclassified service and shall  
11 receive such compensation as is determined by the legislative coordinating  
12 council, except that such compensation may be increased but not  
13 diminished during such service. Either the house of representatives  
14 standing committee on children and seniors ~~or~~, the senate standing  
15 committee on public health and welfare **or any relevant joint committee**  
16 may recommend to the legislative coordinating council changes in the  
17 compensation of the child advocate. The child advocate shall receive travel  
18 expenses and subsistence expenses and allowances as provided for  
19 members of the legislature in K.S.A. 75-3212, and amendments thereto,  
20 when attending any authorized meeting or business outside the city of  
21 Topeka.

22 (4) The office of the child advocate for the children's protection and  
23 services shall be under the direct supervision of the child advocate.  
24 Employees in the office shall be employed by and be responsible to the  
25 child advocate who shall fix the compensation of each such employee  
26 subject to approval of the legislative coordinating council and within  
27 budget and appropriations therefor.

28 (d) (1) On or before the first day of the legislative session in 2022,  
29 and each year thereafter, the child advocate shall submit an annual report  
30 to the governor, the house of representatives standing committee on  
31 children and seniors, the senate standing committee on public health and  
32 welfare, **any relevant joint committee** and the office of judicial  
33 administration. Such report shall include, but not be limited to, the number  
34 of complaints received by the office, the disposition of such complaints,  
35 the number of children involved in such complaints, the state entities  
36 named in such complaints, whether such complaints were found to be  
37 substantiated and any recommendations for improving the delivery of  
38 child welfare services to reduce complaints or improving the function of  
39 the office.

40 (2) **Such reports shall not include names or personally identifiable**  
41 **information of children, guardians or families in complaints.**

42 (3) Such reports are not subject to change by the the house of  
43 representatives standing committee on children and seniors or the senate

1 standing committee on public health and welfare **or any relevant joint**  
2 **committee**, except that either committee may request that additional  
3 information, not subject to section ~~4~~ **3**, and amendments thereto, that was  
4 gathered as part of the report but was not presented in the written report  
5 may be added to subsequent copies of the report or may be distributed  
6 separately.

7 New Sec. 2. (a) The child advocate shall:

8 (1) Address complaints made by or on behalf of a child that relate to  
9 state agencies, service providers, including contractors, subcontractors and  
10 any juvenile court, that may adversely affect the health, safety, welfare or  
11 civil or human rights of such child;

12 (2) establish a procedure for receiving, processing, responding to and  
13 resolving such complaints;

14 ~~(3) conduct an independent review of any entity that has been the~~  
15 ~~subject of three or more review requests in a calendar year, including, but~~  
16 ~~not limited to, the Kansas department for children and families or any~~  
17 ~~guardian ad litem~~ **compile, collect and preserve a record of complaints**  
18 **received and processed that may reveal concerning patterns to be**  
19 **addressed;**

20 (4) submit any findings and recommendations to the Kansas  
21 department for children and families and recommend changes to the  
22 policies and procedures to improve the delivery of child welfare services  
23 ~~or the function of any entity review pursuant to subsection (a)(3);~~

24 (5) **receive and exchange records as provided in K.S.A. 2020**  
25 **Supp. 38-2201 et seq. and 38-2301 et seq., and amendments thereto, to**  
26 **make inquiries and review relevant information and records the office**  
27 **deems necessary for investigations required by** ~~subsections~~ **subsection (a)**  
28 **(1) and (3);**

29 (6) recommend changes to policies, procedures or adopted or  
30 proposed rules and regulations of any state or local agency that adversely  
31 affect or may adversely affect the health, safety, welfare or civil or human  
32 rights of any child;

33 (7) analyze and monitor the development and implementation of  
34 federal, state and local laws, rules and regulations and policies with respect  
35 to child welfare services in the state and recommend changes in such laws,  
36 rules and regulations and polices to the Kansas department for children  
37 and families, Kansas department for aging and disability services, the  
38 department of health and environment, the department of corrections, ~~the~~  
39 ~~office of judicial administration~~ **juvenile courts**, the legislature and the  
40 governor;

41 (8) inform and educate children, their guardians and families of the  
42 child's rights and entitlements under state and federal laws; and

43 (9) fulfill responsibilities in this section guided by generally accepted

1 principles of best practices in child welfare.

2 (b) The office may:

3 (1) ~~Access the following information:~~

4 ~~(A) The names and physical locations of all children in protective~~  
5 ~~services, treatment or other programs under the jurisdiction of the Kansas~~  
6 ~~department for children and families, Kansas department for aging and~~  
7 ~~disability services and the office of judicial administration;~~

8 ~~(B) all written reports of child abuse and neglect; and~~

9 ~~(C) all current records required to be maintained pursuant to articles~~  
10 ~~22 and 23 of chapter 38 of the Kansas Statutes Annotated, and~~  
11 ~~amendments thereto records as provided in K.S.A. 2020 Supp. 38-2201~~  
12 ~~et seq. and 38-2301 et seq., and amendments thereto, related to~~  
13 ~~complaints received;~~

14 **(2) access all written reports of child abuse and neglect**  
15 **maintained by the secretary for children and families related to**  
16 **complaints received;**

17 ~~(2)~~**(3)** communicate privately with any child or child's siblings, after  
18 consultation with treatment professionals and service providers, and with  
19 anyone working with the child, including the family, relatives, employees  
20 of the Kansas department for children and families, Kansas department for  
21 aging and disability services, ~~the office of judicial administration~~ **juvenile**  
22 **courts** and other persons or entities providing treatment and child welfare  
23 services to such child;

24 ~~(3) access, inspect and copy relevant child records held by the clerk~~  
25 ~~of any Kansas court, any public or private institution, law enforcement~~  
26 ~~agency and other agency or person with whom a particular child has been~~  
27 ~~either voluntarily or otherwise placed for care or from whom the child has~~  
28 ~~received treatment within this state or in another state;~~

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

30 (5) file any of the office's findings or reports regarding a parent or  
31 child with the appropriate court with jurisdiction over a child in need of  
32 care case involving such child, and issue recommendations regarding the  
33 disposition of an investigation to the court and to the investigating agency,  
34 but is prohibited from intervening in divorce, protection from abuse,  
35 juvenile offender, **child in need of care**, administrative hearings, civil or  
36 criminal proceedings;

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

39 (7) utilize the resources of the office of the attorney general, as  
40 necessary, to carry out any duties of the child advocate for children's  
41 protection and services and receive legal counsel or services;

42 (8) initiate meetings with personnel from the Kansas department for  
43 children and families, Kansas department for aging and disability services

1 ~~and office of judicial administration~~ **juvenile courts;**

2 (9) apply for and accept grants, gifts and bequests of moneys from  
3 other state, interstate or federal agencies, independent authorities, private  
4 firms, individuals or foundations to carry out the child advocate's duties  
5 and responsibilities. The moneys shall be deposited in a dedicated account  
6 established within the office. Moneys shall be expended in accordance  
7 with the provisions of the grant or bequest; ~~and~~

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

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

14 **(c) (1) Any duty or action of the child advocate provided in**  
15 **sections 1 through 5, and amendments thereto, shall be independent of**  
16 **the judicial and executive branches of government.**

17 **(2) Nothing in this section shall create a just cause for delay of**  
18 **court proceedings or excuse any court, county attorney or district**  
19 **attorney, guardian ad litem or other agency from their duties in**  
20 **proceedings related to a child.**

21 **(3) No review of any complaint shall require any licensed**  
22 **professional to engage or not engage in conduct required or prohibited**  
23 **by any governing professional code of responsibility or conduct.**

24 ~~New Sec. 3. (a) Each finding, conclusion, opinion or recommendation~~  
25 ~~of the office of the child advocate for the children's protection and services~~  
26 ~~shall be confidential and~~ **Annual reports submitted as provided in**  
27 **section 1, and amendments thereto,** shall not be disclosed pursuant to the  
28 provisions of the open records act or under any other law until:

29 (1) The time of the next scheduled meeting of either the house of  
30 representatives standing committee on children and seniors or the senate  
31 standing committee on public health and welfare held after distribution of  
32 the report to members of such committee; or

33 (2) the time of the next scheduled meeting of another legislative  
34 committee held after distribution of the report to the members of such  
35 committee as authorized by the house of representatives standing  
36 committee on children and seniors or the senate standing committee on  
37 public health and welfare.

38 (b) For any information obtained from a state agency or other entity  
39 under sections 1 through 5, and amendments thereto, the office shall be  
40 subject to ~~K.S.A. 38-2209 through K.S.A. 38-2213~~ **2020 Supp. 38-2201 et**  
41 **seq. and 38-2301 et seq.,** and amendments thereto, and any federal  
42 statutory disclosure restrictions and confidentiality requirements that are  
43 applicable to the state agency or other entity providing such information to

1 the office.

2 (c) The provisions of this section providing for confidentiality of  
3 records shall expire on July 1, 2026, unless the legislature reviews and  
4 reenacts such provisions pursuant to K.S.A. 45-229, and amendments  
5 thereto, prior to July 1, 2026.

6 New Sec. 4. (a) Any employee of the office shall be immune from  
7 suit and liability, in an official capacity and personally, for the good faith  
8 performance of duties prescribed in sections 1 through 3, and amendments  
9 thereto.

10 (b) (1) No person shall take reprisal or retaliatory action against any  
11 recipient of child welfare services or employee of the Kansas department  
12 for children and families and such department's grantees, the Kansas  
13 department for aging and disability services, the department of corrections,  
14 the department of health and environment and ~~the office of judicial~~  
15 ~~administration~~ **juvenile courts** for any communication made or  
16 information given to the office for the purpose of compliance with sections  
17 1 through 3, and amendments thereto. Any person who knowingly violates  
18 the provisions of this paragraph shall be guilty of a class A nonperson  
19 misdemeanor.

20 (2) No employee of the office of the child advocate for children's  
21 protection and services shall:

22 (A) Knowingly disclose false information; or

23 (B) disclose confidential information without lawful authority.

24 (c) As used in this section, "reprisal or retaliatory action" includes,  
25 but is not 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. 5. (a) The annual budget request of the office shall be  
35 prepared by the child advocate, and the child advocate shall present such  
36 budget request to the legislative coordinating council. Such council shall  
37 make any changes such council desires in such budget request and upon  
38 approval of the budget request by the council, the office of the child  
39 advocate shall submit such budget request to the director of the budget as  
40 other budget requests are submitted under K.S.A. 75-3717, and  
41 amendments thereto.

42 (b) All expenditures from appropriations to the office shall be made  
43 upon warrants of the director of accounts and reports issued pursuant to

1 vouchers approved by the child advocate or the child advocate's designee.

2 (c) (1) The secretary for children and families shall enter into  
3 agreements with the office for provision of financial assistance to the  
4 office by the Kansas department for children and families from available  
5 state and federal funds of such department. This financial assistance shall  
6 be to assist the child advocate to provide child advocacy services in  
7 accordance with sections 1 through 5, and amendments thereto.

8 (2) For the fiscal year ending June 30, 2022, and for each fiscal year  
9 thereafter, the secretary for children and families shall include in the  
10 budget estimates prepared and submitted to the division of the budget for  
11 the Kansas department for children and families under K.S.A. 75-3717,  
12 and amendments thereto, in addition to other amounts included in such  
13 budget estimates for the Kansas department for children and families,  
14 amounts provided to the office during such fiscal year pursuant to this  
15 section. The amounts included in such budget estimates to be provided to  
16 the office shall include amounts to be appropriated from federal moneys  
17 provided to the Kansas department for children and families.

18 (3) Commencing with the fiscal year ending on June 30, 2023, the  
19 Kansas department for children and families shall not provide less than the  
20 aggregate amount provided to the office the preceding fiscal year, ending  
21 on June 30, 2022. The Kansas department for children and families shall  
22 adjust the aggregate amounts to be provided to the office appropriately for  
23 increases attributable to inflation and other applicable factors.

24 Sec. 6. K.S.A. 2020 Supp. 38-2211 is hereby amended to read as  
25 follows: 38-2211. (a) *Access to the official file*. The following persons or  
26 entities shall have access to the official file of a child in need of care  
27 proceeding pursuant to this code:

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

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

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

33 (4) A court appointed special advocate for a child who is the subject  
34 of the proceeding or a paid staff member of a court appointed special  
35 advocate program.

36 (5) Any individual, or any public or private agency or institution,  
37 having custody of the child under court order or providing educational,  
38 medical or mental health services to the child or any placement provider or  
39 potential placement provider as determined by the secretary or court  
40 services officer.

41 (6) A citizen review board.

42 (7) The secretary of corrections or any agents designated by the  
43 secretary of corrections.

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

3 (9) *The office of the child advocate for children's protection and*  
4 *services, pursuant to sections 1 through 5, and amendments thereto.*

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

7 ~~(10)~~(11) The commission on judicial performance in the discharge of  
8 the commission's duties pursuant to article 32 of chapter 20 of the Kansas  
9 Statutes Annotated, and amendments thereto.

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

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

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

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

19 (4) A court appointed special advocate for a child who is the subject  
20 of the proceeding or a paid staff member of a court appointed special  
21 advocate program.

22 (5) A citizen review board.

23 (6) The secretary.

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

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

29 (9) *The office of the child advocate for children's protection and*  
30 *services, pursuant to sections 1 through 5, and amendments thereto.*

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

33 (c) *Preservation of records.* The Kansas state historical society shall  
34 be allowed to take possession for preservation in the state archives of any  
35 court records related to proceedings under the Kansas code for care of  
36 children whenever such records otherwise would be destroyed. No such  
37 records in the custody of the Kansas state historical society shall be  
38 disclosed directly or indirectly to anyone for 70 years after creation of the  
39 records, except as provided in subsections (a) and (b). Pursuant to  
40 subsections (a)~~(9)~~(10) and (b)~~(9)~~(10), a judge of the district court may  
41 allow inspection for research purposes of any court records in the custody  
42 of the Kansas state historical society related to proceedings under the  
43 Kansas code for care of children.



1       Sec. 7. K.S.A. 2020 Supp. 38-2212 is hereby amended to read as  
2 follows: 38-2212. (a) *Principle of appropriate access.* Information  
3 contained in confidential agency records concerning a child alleged or  
4 adjudicated to be in need of care may be disclosed as provided in this  
5 section. Disclosure shall in all cases be guided by the principle of  
6 providing access only to persons or entities with a need for information  
7 that is directly related to achieving the purposes of this code.

8       (b) *Free exchange of information.* Pursuant to K.S.A. 2020 Supp. 38-  
9 2210, and amendments thereto, the secretary and juvenile intake and  
10 assessment agencies shall participate in the free exchange of information  
11 concerning a child who is alleged or adjudicated to be in need of care.

12       (c) *Necessary access.* The following persons or entities shall have  
13 access to information from agency records. Access shall be limited to  
14 information reasonably necessary to carry out their lawful responsibilities,  
15 to maintain their personal safety and the personal safety of individuals in  
16 their care, or to educate, diagnose, treat, care for or protect a child alleged  
17 to be in need of care. Information authorized to be disclosed pursuant to  
18 this subsection shall not contain information that identifies a reporter of a  
19 child who is alleged or adjudicated to be a child in need of care.

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

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

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

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

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

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

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

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

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

37       (7) The state child death review board established under K.S.A. 22a-  
38 243, and amendments thereto.

39       (8) An attorney for a private party who files a petition pursuant to  
40 K.S.A. 2020 Supp. 38-2233(b), and amendments thereto.

41       (9) A foster parent, prospective foster parent, permanent custodian,  
42 prospective permanent custodian, adoptive parent or prospective adoptive  
43 parent. In order to assist such persons in making an informed decision

1 regarding acceptance of a particular child, to help the family anticipate  
2 problems that may occur during the child's placement, and to help the  
3 family meet the needs of the child in a constructive manner, the secretary  
4 shall seek and shall provide the following information to such persons as  
5 the information becomes available to the secretary:

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

7 (B) circumstances that necessitated placement;

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

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

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

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

16 (10) The state protection and advocacy agency as provided by K.S.A.  
17 65-5603(a)(10) or ~~K.S.A.~~ 74-5515(a)(2)(A) and (B), and amendments  
18 thereto.

19 (11) Any educational institution to the extent necessary to enable the  
20 educational institution to provide the safest possible environment for its  
21 pupils and employees.

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

24 (13) *The office of the child advocate for children's protection and*  
25 *services, pursuant to sections 1 through 5, and amendments thereto.*

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

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

35 (1) Information from confidential agency records of the Kansas  
36 department for children and families, a law enforcement agency or any  
37 juvenile intake and assessment worker of a child alleged or adjudicated to  
38 be in need of care shall be available to members of the standing house or  
39 senate committee on judiciary, house committee on corrections and  
40 juvenile justice, house committee on appropriations, senate committee on  
41 ways and means, legislative post audit committee and any joint committee  
42 with authority to consider children's and families' issues, when carrying  
43 out such member's or committee's official functions in accordance with

1 K.S.A. 75-4319, and amendments thereto, in a closed or executive  
2 meeting. Except in limited conditions established by  $\frac{2}{3}$  of the members of  
3 such committee, records and reports received by the committee shall not  
4 be further disclosed. Unauthorized disclosure may subject such member to  
5 discipline or censure from the house of representatives or senate. The  
6 secretary for children and families shall not summarize the outcome of  
7 department actions regarding a child alleged to be a child in need of care  
8 in information available to members of such committees.

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

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

15 (A) The individuals involved or their representatives have given  
16 express written consent; or

17 (B) the investigation of the abuse or neglect of the child or the filing  
18 of a petition alleging a child to be in need of care has become public  
19 knowledge, provided, however, that the agency shall limit disclosure to  
20 confirmation of procedural details relating to the handling of the case by  
21 professionals.

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

29 (f) (1) Notwithstanding any other provision of law to the contrary,  
30 except as provided in paragraph (6), in the event that child abuse or  
31 neglect results in a child fatality or near fatality, reports or records of a  
32 child alleged or adjudicated to be in need of care received by the secretary,  
33 a law enforcement agency or any juvenile intake and assessment worker  
34 shall become a public record and subject to disclosure pursuant to K.S.A.  
35 45-215, and amendments thereto.

36 (2) Within seven days of receipt of a request in accordance with the  
37 procedures adopted under K.S.A. 45-220, and amendments thereto, the  
38 secretary shall notify any affected individual that an open records request  
39 has been made concerning such records. The secretary or any affected  
40 individual may file a motion requesting the court to prevent disclosure of  
41 such record or report, or any select portion thereof. Notice of the filing of  
42 such motion shall be provided to all parties requesting the records or  
43 reports, and such party or parties shall have a right to hearing, upon

1 request, prior to the entry of any order on such motion. If the affected  
2 individual does not file such motion within seven days of notification, and  
3 the secretary has not filed a motion, the secretary shall release the reports  
4 or records. If such motion is filed, the court shall consider the effect such  
5 disclosure may have upon an ongoing criminal investigation, a pending  
6 prosecution, or the privacy of the child, if living, or the child's siblings,  
7 parents or guardians, and the public's interest in the disclosure of such  
8 records or reports. The court shall make written findings on the record  
9 justifying the closing of the records and shall provide a copy of the journal  
10 entry to the affected parties and the individual requesting disclosure  
11 pursuant to the Kansas open records act, K.S.A. 45-215 et seq., and  
12 amendments thereto.

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

18 (A) Age and sex of the child;

19 (B) date of the fatality;

20 (C) a summary of any previous reports of abuse or neglect received  
21 by the secretary involving the child, along with the findings of such  
22 reports; and

23 (D) any department recommended services provided to the child.

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

30 (A) Age and sex of the child;

31 (B) date of the fatality; and

32 (C) a summary of the facts surrounding the death of the child.

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

39 (6) Nothing in this subsection shall allow the disclosure of reports,  
40 records or documents concerning the child and such child's biological  
41 parents that were created prior to such child's adoption. Nothing herein is  
42 intended to require that an otherwise privileged communication lose its  
43 privileged character.

1       Sec. 8. K.S.A. 2020 Supp. 38-2213 is hereby amended to read as  
2 follows: 38-2213. (a) *Principle of limited disclosure.* Information  
3 contained in confidential law enforcement records concerning a child  
4 alleged or adjudicated to be in need of care may be disclosed as provided  
5 in this section. Disclosure shall in all cases be guided by the principle of  
6 providing access only to persons or entities with a need for information  
7 that is directly related to achieving the purposes of this code.

8       (b) *Free exchange of information.* Pursuant to K.S.A. 2020 Supp. 38-  
9 2210, and amendments thereto, a law enforcement agency shall participate  
10 in the free exchange of information concerning a child who is alleged or  
11 adjudicated to be in need of care.

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

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

18       (2) The secretary.

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

20       (4) Law enforcement officers or county or district attorneys or their  
21 staff.

22       (5) Any juvenile intake and assessment worker.

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

24       (7) *The office of the child advocate for children's protection and*  
25 *services, pursuant to sections 1 through 5, and amendments thereto.*

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

30       ~~(8)(9)~~ Persons or entities allowed access pursuant to ~~subsection (f) of~~  
31 K.S.A. 2020 Supp. 38-2212(f), and amendments thereto.

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

40       (1) Any individual, or public or private agency authorized by a  
41 properly constituted authority to diagnose, care for, treat or supervise a  
42 child who is the subject of a report or record of child abuse or neglect,  
43 including physicians, psychiatrists, nurses, nurse practitioners,

1 psychologists, licensed social workers, child development specialists,  
2 physician assistants, community mental health workers, alcohol and drug  
3 abuse counselors, and licensed or registered child care providers.

4 (2) School administrators shall have access to but shall not copy law  
5 enforcement records and may disclose information to teachers,  
6 paraprofessionals and other school personnel as necessary to meet the  
7 educational needs of the child or to protect the safety of students and  
8 school employees.

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

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

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

35 Sec. 9. K.S.A. 2020 Supp. 38-2309 is hereby amended to read as  
36 follows: 38-2309. (a) *Official file.* The official file of proceedings pursuant  
37 to this code shall consist of the complaint, process, service of process,  
38 orders, writs and journal entries reflecting hearings held, judgments and  
39 decrees entered by the court. The official file shall be kept separate from  
40 other records of the court.

41 (b) The official file shall be open for public inspection, unless the  
42 judge determines that opening the official file for public inspection is not  
43 in the best interests of a juvenile who is less than 14 years of age.

1 Information identifying victims and alleged victims of sex offenses, as  
2 defined in article 35 of chapter 21 of the Kansas Statutes Annotated, prior  
3 to their repeal, or article 55 of chapter 21 of the Kansas Statutes  
4 Annotated, or K.S.A. 2020 Supp. 21-6419 through 21-6422, and  
5 amendments thereto, or human trafficking or aggravated human  
6 trafficking, as defined in K.S.A. 21-3446 or 21-3447, prior to their repeal,  
7 or K.S.A. 2020 Supp. 21-5426, and amendments thereto, shall not be  
8 disclosed or open to public inspection under any circumstances. Nothing in  
9 this section shall prohibit the victim or alleged victim of any sex offense  
10 from voluntarily disclosing such victim's identity. An official file closed  
11 pursuant to this section and information identifying the victim or alleged  
12 victim of any sex offense shall be disclosed only to the following:

- 13 (1) A judge of the district court and members of the staff of the court  
14 designated by the judge;
  - 15 (2) parties to the proceedings and their attorneys;
  - 16 (3) any individual or any public or private agency or institution:
    - 17 (A) Having custody of the juvenile under court order; or
    - 18 (B) providing educational, medical or mental health services to the  
19 juvenile;
  - 20 (4) the juvenile's court appointed special advocate;
  - 21 (5) any placement provider or potential placement provider as  
22 determined by the commissioner or court services officer;
  - 23 (6) law enforcement officers or county or district attorneys, or their  
24 staff, when necessary for the discharge of their official duties;
  - 25 (7) the Kansas racing commission, upon written request of the  
26 commission chairperson, for the purpose provided by K.S.A. 74-8804, and  
27 amendments thereto, except that information identifying the victim or  
28 alleged victim of any sex offense shall not be disclosed pursuant to this  
29 subsection;
  - 30 (8) juvenile intake and assessment workers;
  - 31 (9) the commissioner;
  - 32 (10) *the office of the child advocate for children's protection and*  
33 *services, pursuant to sections 1 through 5, and amendments thereto;*
  - 34 (11) any other person when authorized by a court order, subject to any  
35 conditions imposed by the order; and
  - 36 ~~(11)~~(12) the commission on judicial performance in the discharge of  
37 the commission's duties pursuant to article 32 of chapter 20 of the Kansas  
38 Statutes Annotated, and amendments thereto.
- 39 (c) (1) *Social file.* Reports and information received by the court,  
40 other than the official file, shall be privileged and open to inspection only  
41 by *the following:*
- 42 (A) Attorneys for the parties;;
  - 43 (B) juvenile intake and assessment workers;;

- 1 (C) court appointed special advocates;
- 2 (D) juvenile community corrections officers;
- 3 (E) the juvenile's guardian ad litem, if any;
- 4 (F) *the office of the child advocate for children's protection and*  
5 *services, pursuant to sections 1 through 5, and amendments thereto; or*  
6 ~~upon~~
- 7 (G) *any other person when authorized by the order of a judge of the*  
8 *district court or appellate court.*

9 (2) The reports shall not be further disclosed without approval of the  
10 court or by being presented as admissible evidence.

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

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

30 Sec. 10. K.S.A. 2020 Supp. 38-2310 is hereby amended to read as  
31 follows: 38-2310. (a) All records of law enforcement officers and agencies  
32 and municipal courts concerning an offense committed or alleged to have  
33 been committed by a juvenile under 14 years of age shall be kept readily  
34 distinguishable from criminal and other records and shall not be disclosed  
35 to anyone except:

36 (1) The judge of the district court and members of the staff of the  
37 court designated by the judge;

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

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

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



- 1 (5) 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 (6) 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 (7) law enforcement officers or county or district attorneys, or their  
7 staff, when necessary for the discharge of their official duties;
- 8 (8) the central repository, as defined by K.S.A. 22-4701, and  
9 amendments thereto, for use only as a part of the juvenile offender  
10 information system established under K.S.A. 2020 Supp. 38-2326, and  
11 amendments thereto;
- 12 (9) juvenile intake and assessment workers;
- 13 (10) the department of corrections;
- 14 (11) juvenile community corrections officers;
- 15 (12) the interstate compact for juveniles compact administrator for  
16 the purpose of carrying out the responsibilities related to the interstate  
17 compact for juveniles;
- 18 (13) *the office of the child advocate for children's protection and*  
19 *services, pursuant to sections 1 through 5, and amendments thereto;*
- 20 (14) any other person when authorized by a court order, subject to  
21 any conditions imposed by the order; and
- 22 ~~(14)~~(15) as provided in subsection (c).
- 23 (b) The provisions of this section shall not apply to records  
24 concerning:
- 25 (1) A violation, by a person 14 or more years of age, of any provision  
26 of chapter 8 of the Kansas Statutes Annotated, and amendments thereto, or  
27 of any city ordinance or county resolution—~~which~~ *that* relates to the  
28 regulation of traffic on the roads, highways or streets or the operation of  
29 self-propelled or nonself-propelled vehicles of any kind;
- 30 (2) a violation, by a person 16 or more years of age, of any provision  
31 of chapter 32 of the Kansas Statutes Annotated, and amendments thereto;  
32 or
- 33 (3) an offense for which the juvenile is prosecuted as an adult.
- 34 (c) All records of law enforcement officers and agencies and  
35 municipal courts concerning an offense committed or alleged to have been  
36 committed by a juvenile 14 or more years of age shall be subject to the  
37 same disclosure restrictions as the records of adults. Information  
38 identifying victims and alleged victims of sex offenses, as defined in  
39 article 35 of chapter 21 of the Kansas Statutes Annotated, prior to their  
40 repeal, or article 55 of chapter 21 of the Kansas Statutes Annotated, and  
41 amendments thereto, K.S.A. 2020 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. 2020 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 any alleged victim of any sex  
4 offense from voluntarily disclosing such victim's identity.

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

9 (e) All records, reports and information obtained as a part of the  
10 juvenile intake and assessment process for juveniles shall be confidential,  
11 and shall not be disclosed except as provided by statutory law and rules  
12 and regulations promulgated by the secretary.

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

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

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

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

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

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

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

30 (F) an agency charged with the responsibility of preventing or  
31 treating physical, mental or emotional abuse or neglect or sexual abuse of  
32 children, if the agency requesting the information has standards of  
33 confidentiality as strict or stricter than the requirements of the Kansas code  
34 for care of children or the revised Kansas juvenile justice code, whichever  
35 is applicable;

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

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

40 (I) any individual, or public or private agency authorized by a  
41 properly constituted authority to diagnose, care for, treat or supervise a  
42 juvenile who is the subject of a report or record of child abuse or neglect,  
43 specifically including the following: Physicians, psychiatrists, nurses,

1 nurse practitioners, psychologists, licensed social workers, child  
2 development specialists, physician assistants, community mental health  
3 workers, addiction counselors and licensed or registered child care  
4 providers;

5 (J) a citizen review board pursuant to K.S.A. 2020 Supp. 38-2207,  
6 and amendments thereto;

7 (K) an educational institution to the extent necessary to enable such  
8 institution to provide the safest possible environment for pupils and  
9 employees of the institution;

10 (L) any educator to the extent necessary for the protection of the  
11 educator and pupils;

12 (M) any juvenile intake and assessment worker of another certified  
13 juvenile intake and assessment program; ~~and~~

14 (N) the interstate compact for juveniles compact administrator for the  
15 purpose of carrying out the responsibilities related to the interstate  
16 compact for juveniles; *and*

17 *(O) the office of the child advocate for children's protection and*  
18 *services, pursuant to sections 1 through 5, and amendments thereto.*

19 Sec. 11. K.S.A. 2020 Supp. 38-2211, 38-2212, 38-2213, 38-2309 and  
20 38-2310 are hereby repealed.

21 Sec. 12. This act shall take effect and be in force from and after its  
22 publication in the statute book.