

SENATE BILL No. 83

By Committee on Public Health and Welfare

1-26

1 AN ACT concerning the state child death review board; relating to
2 confidentiality of records; exceptions; amending K.S.A. 2020 Supp.
3 22a-243 and repealing the existing section.
4

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

6 Section 1. K.S.A. 2020 Supp. 22a-243 is hereby amended to read as
7 follows: 22a-243. (a) There is hereby established a state child death review
8 board, which shall be composed of:

9 (1) One member appointed by each of the following officers to
10 represent the officer's agency: The attorney general, the director of the
11 Kansas bureau of investigation, the secretary for children and families, the
12 secretary of health and environment and the commissioner of education;

13 (2) three members appointed by the state board of healing arts, one of
14 whom shall be a district coroner and two of whom shall be physicians
15 licensed to practice medicine and surgery, one specializing in pathology
16 and the other specializing in pediatrics;

17 (3) one person appointed by the attorney general to represent
18 advocacy groups ~~which~~ *that* focus attention on child abuse awareness and
19 prevention; and

20 (4) one county or district attorney appointed by the Kansas county
21 and district attorneys association.

22 (b) The chairperson of the state review board shall be the member
23 appointed by the attorney general to represent the office of the attorney
24 general.

25 (c) The state child death review board shall be within the office of the
26 attorney general as a part thereof. All budgeting, purchasing and related
27 management functions of the board shall be administered under the
28 direction and supervision of the attorney general. All vouchers for
29 expenditures and all payrolls of the board shall be approved by the
30 chairperson of the board and by the attorney general. The state review
31 board shall establish and maintain an office in Topeka.

32 (d) The state review board shall meet at least annually to review all
33 reports submitted to the board. The chairperson of the state review board
34 may call a special meeting of the board at any time to review any report of

1 a child death.

2 (e) Within the limits of appropriations therefor, the state review board
3 shall appoint an executive director who shall be in the unclassified service
4 of the Kansas civil service act and shall receive an annual salary fixed by
5 the state review board.

6 (f) Within the limits of appropriations therefor, the state review board
7 may employ other persons who shall be in the classified service of the
8 Kansas civil service act.

9 (g) Members of the state review board shall not receive
10 compensation, subsistence allowances, mileage and expenses as provided
11 by K.S.A. 75-3223, and amendments thereto, for attending meetings or
12 subcommittee meetings of the board.

13 (h) The state review board shall develop a protocol to be used by the
14 state review board. The protocol shall include written guidelines for
15 coroners to use in identifying any suspicious deaths, procedures to be used
16 by the board in investigating child deaths, methods to ensure coordination
17 and cooperation among all agencies involved in child deaths and
18 procedures for facilitating prosecution of perpetrators when it appears the
19 cause of a child's death was from abuse or neglect. The protocol shall be
20 adopted by the state review board by rules and regulations.

21 (i) The state review board shall submit an annual report to the
22 governor and the legislature on or before October 1 of each year,
23 ~~commencing October 1993~~. Such report shall include the findings of the
24 board regarding reports of child deaths, the board's analysis and the board's
25 recommendations for improving child protection, including
26 recommendations for modifying statutes, rules and regulations, policies
27 and procedures.

28 (j) Information acquired by, and records of, the state review board
29 shall be confidential, shall not be disclosed and shall not be subject to
30 subpoena, discovery or introduction into evidence in any civil or criminal
31 proceeding, except that ~~such information and records may be disclosed to~~
32 ~~any member of the legislature or any legislative committee which has~~
33 ~~legislative responsibility of the enabling or appropriating legislation,~~
34 ~~carrying out such member's or committee's official functions. The~~
35 ~~legislative committee, in accordance with K.S.A. 75-4319, and~~
36 ~~amendments thereto, shall recess for a closed or executive meeting to~~
37 ~~receive and discuss information received by the committee pursuant to this~~
38 ~~subsection~~ *the state review board or the board's designee may disclose*
39 *such information and records to:*

40 (1) *Any member of the legislature or legislative committee that has*
41 *legislative responsibility of the enabling or appropriating legislation, if*
42 *such member or committee is carrying out the official functions of such*
43 *member or committee, and if any such committee recesses into a closed or*

1 executive meeting pursuant to K.S.A. 75-4319(a), and amendments
2 thereto, and has taken appropriate steps to preserve its privacy;

3 (2) any person or entity contracting with the state review board, if the
4 board has determined that disclosure of such information and records is
5 essential for completion of the contract, and the board has taken
6 appropriate steps to preserve confidentiality;

7 (3) any person or entity, if the information and records being
8 disclosed are statistics or conclusions of the state review board of the
9 same type included in its annual report pursuant to subsection (i);

10 (4) any law enforcement agency of the state or any political
11 subdivision thereof, if the state review board determines:

12 (A) The information and records being disclosed were not previously
13 available to such law enforcement agency for the investigation of the
14 cause of the child's death; ~~and~~

15 (B) the cause of the child's death was from abuse or neglect; **and**

16 (C) **if the board had knowledge of a law enforcement investigation**
17 **involving the death of a child;**

18 (5) any county or district attorney, if the state review board
19 determines:

20 (A) The information and records being disclosed were not previously
21 available to such county or district attorney for the prosecution of any
22 crimes related to the cause of the child's death; ~~and~~

23 (B) the cause of the child's death was from abuse or neglect; **and**

24 (C) **if the board had knowledge of a law enforcement investigation**
25 **involving the death of a child;**

26 (6) **{any entity established by a city or county for the express**
27 **purpose of providing a local review of child deaths if the information**
28 **and records being disclosed are related a child's death where either:**

29 (A) **such death occurred in such city or county; or**

30 (B) **such child was a resident of such city or county;**

31 (7)} any licensing body as defined by K.S.A. 74-146, and amendments
32 thereto, if:

33 (A) The information and records being disclosed are related to a
34 disciplinary complaint against a person licensed by such licensing body;

35 (B) any member of the state review board is under a professional
36 obligation to make a disciplinary complaint against a person licensed by
37 such licensing body; or

38 (C) a person licensed by such licensing body may have caused or
39 contributed to the child's death; and

40 ~~(7)}~~**(8)}** a governmental agency or an organization that has a
41 federalwide assurance (FWA) for the protection of human subjects in good
42 standing with the United States department of health and human services
43 officer for human research protections, if:

1 (A) *The agency or organization provides documentation that an*
2 *institutional review board designated in the FWA has reviewed the*
3 *organization's research proposal;*

4 (B) *personally identifiable information is redacted from the*
5 *disclosure;*

6 (C) *the disclosure is only for the purpose of health or education; and*

7 (D) *the agency or organization requires all persons granted access to*
8 *the disclosed information and records to sign a confidentiality agreement*
9 *prior to receipt of the disclosed information and records.*

10 (k) The state review board may adopt rules and regulations as
11 necessary to carry out the provisions of K.S.A. 22a-241 through 22a-244,
12 and amendments thereto.

13 Sec. 2. K.S.A. 2020 Supp. 22a-243 is hereby repealed.

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