

HOUSE BILL No. 2742

By Committee on Child Welfare and Foster Care

Requested by Brad Smoot on behalf of Children's Mercy Hospital

2-7

1 AN ACT concerning children and minors; relating to the secretary for
2 children and families; directing the secretary to reimburse a hospital
3 when a child in custody of the secretary remains at the hospital and is
4 no longer receiving medical services; amending K.S.A. 38-2217 and
5 repealing the existing section.
6

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

8 Section 1. K.S.A. 38-2217 is hereby amended to read as follows: 38-
9 2217. (a) *Physical or mental care and treatment.* (1) When a child less
10 than 18 years of age is alleged to have been physically, mentally or
11 emotionally abused or neglected or sexually abused, no consent shall be
12 required to medically examine the child to determine whether the child has
13 been abused or neglected. Unless the child is alleged or suspected to have
14 been abused by the parent or guardian, the investigating officer shall notify
15 or attempt to notify the parent or guardian of the medical examination of
16 the child.

17 (2) When the health or condition of a child who is subject to
18 jurisdiction of the court requires it, the court may consent to the
19 performing and furnishing of hospital, medical, surgical or dental
20 treatment or procedures, including the release and inspection of medical or
21 dental records. A child, or parent of any child, who is opposed to certain
22 medical procedures authorized by this subsection may request an
23 opportunity for a hearing thereon before the court. Subsequent to the
24 hearing, the court may limit the performance of matters provided for in
25 this subsection or may authorize the performance of those matters subject
26 to terms and conditions the court considers proper.

27 (3) The custodian or agent of the custodian is the personal
28 representative for the purpose of consenting to disclosure of otherwise
29 protected health information and may give consent to the following:

- 30 (A) Dental treatment for the child by a licensed dentist;
31 (B) diagnostic examinations of the child, including, but not limited to,
32 the withdrawal of blood or other body fluids, x-rays and other
33 laboratory examinations;
34 (C) releases and inspections of the child's medical history records;
35 (D) immunizations for the child;

1 (E) administration of lawfully prescribed drugs to the child;

2 (F) examinations of the child, including, but not limited to, the
3 withdrawal of blood or other body fluids or tissues for the purpose of
4 determining the child's parentage; and

5 (G) subject to limitations in K.S.A. 59-3075(e)(4), (5) and (6), and
6 amendments thereto, medical or surgical care determined by a physician to
7 be necessary for the welfare of such child, if the parents are not available
8 or refuse to consent.

9 (4) When the court has adjudicated a child to be in need of care, the
10 custodian or an agent designated by the custodian is the personal
11 representative for the purpose of consenting to disclosure of otherwise
12 protected health information and shall have authority to consent to the
13 performance and furnishing of hospital, medical, surgical or dental
14 treatment or procedures or mental care or treatment other than inpatient
15 treatment at a state psychiatric hospital, including the release and
16 inspection of medical or hospital records, subject to terms and conditions
17 the court considers proper and subject to the limitations of K.S.A. 59-3075
18 (e)(4), (5) and (6), and amendments thereto.

19 (5) Any health care provider who in good faith renders hospital,
20 medical, surgical, mental or dental care or treatment to any child or
21 discloses protected health information as authorized by this section shall
22 not be liable in any civil or criminal action for failure to obtain consent of
23 a parent.

24 (6) Nothing in this section shall be construed to mean that any person
25 shall be relieved of legal responsibility to provide care and support for a
26 child.

27 (b) *Care and treatment requiring court action.* If it is brought to the
28 court's attention, while the court is exercising jurisdiction over the person
29 of a child under this code, that the child may be a mentally ill person as
30 defined in K.S.A. 59-2946, and amendments thereto, or a person with an
31 alcohol or substance abuse problem as defined in K.S.A. 59-29b46, and
32 amendments thereto, the court may:

33 (1) Direct or authorize the county or district attorney or the person
34 supplying the information to file the petition provided for in K.S.A. 59-
35 2957, and amendments thereto, and proceed to hear and determine the
36 issues raised by the application as provided in the care and treatment act
37 for mentally ill persons or the petition provided for in K.S.A. 59-29b57,
38 and amendments thereto, and proceed to hear and determine the issues
39 raised by the application as provided in the care and treatment act for
40 persons with an alcohol or substance abuse problem; or

41 (2) authorize that the child seek voluntary admission to a treatment
42 facility as provided in K.S.A. 59-2949, and amendments thereto, or K.S.A.
43 59-29b49, and amendments thereto.

1 (c) *Petitions and orders for treatment.* The application to determine
2 whether the child is a mentally ill person or a person with an alcohol or
3 substance abuse problem may be filed in the same proceedings as the
4 petition alleging the child to be a child in need of care; or may be brought
5 in separate proceedings. In either event, the court may enter an order
6 staying any further proceedings under this code until all proceedings have
7 been concluded under the care and treatment act for mentally ill persons or
8 the care and treatment act for persons with an alcohol or substance abuse
9 problem.

10 (d) *Reimbursement of hospital stays.* (1) *The secretary shall take*
11 *physical custody of a child who is in the custody of the secretary once the*
12 *child who is currently at a hospital no longer needs medical services*
13 *provided by such hospital.*

14 (2) *If the secretary fails to take physical custody of such child, the*
15 *secretary shall reimburse the hospital each day that the child remains at*
16 *the hospital but no longer needs medical services provided by the hospital*
17 *in the amount of the actual rate that the hospital would receive for*
18 *inpatient admission.*

19 Sec. 2. K.S.A. 38-2217 is hereby repealed.

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