

SENATE BILL No. 232

By Committee on Judiciary

2-10

1 AN ACT concerning children and minors; establishing the office of the
2 child advocate as an independent state agency and prescribing certain
3 powers, duties and functions therefor; authorizing access to certain
4 records; amending K.S.A. 38-2213, 38-2309 and 38-2310 and K.S.A.
5 2022 Supp. 38-2211 and 38-2212 and repealing the existing sections.
6

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

8 New Section 1. (a) Sections 1 through 5, and amendments thereto,
9 shall be known and may be cited as the child advocate act.

10 (b) As used in the child advocate act:

11 (1) "Office" means the office of the child advocate and includes the
12 child advocate and staff; and

13 (2) "child" means an individual less than 18 years of age at the time
14 such individual was receiving:

15 (A) Services from the Kansas department for children and families or
16 any contracting agency, for whom the Kansas department of children and
17 families has an open case file, or who has been, or whose siblings, parents
18 or other caretakers have been the subject of a report of abuse or neglect to
19 the Kansas department for children and families within the previous five
20 years; or

21 (B) services, treatment or other programs from the department of
22 corrections.

23 New Sec. 2. (a) There is hereby established the office of the child
24 advocate, the head of which shall be the child advocate. In the
25 performance of the powers, duties and functions prescribed by law, the
26 office shall be an independent state agency. The child advocate shall be
27 appointed by the governor and subject to confirmation by the senate as
28 provided by K.S.A. 75-4315b, and amendments thereto.

29 (b) (1) Except as provided by K.S.A. 46-2601, and amendments
30 thereto, no person appointed to the position of the child advocate shall
31 exercise any power, duty or function of the child advocate until confirmed
32 by the senate. The child advocate shall be selected without regard to
33 political affiliation and on the basis of integrity and capacity for effectively
34 carrying out the duties of the office.

35 (2) No former or current executive or manager of any program or
36 agency or contracting agency subject to oversight by the office may be

1 appointed to the position of the child advocate within six months of that
2 individual's period of service with such program or agency.

3 (3) A person appointed to the position of the child advocate shall
4 serve for a term that shall expire on January 15 of each year when the
5 whole senate is sworn in for a new term.

6 (4) The child advocate shall be in the unclassified service and shall
7 receive an annual salary in an amount equal to the annual salary paid by
8 the state to a district court judge.

9 (5) The child advocate shall exercise independent judgment in
10 carrying out the duties of the office. The child advocate shall serve at the
11 pleasure of the governor.

12 (b) (1) Subject to this subsection, the child advocate shall have
13 general managerial control over the office of the child advocate and shall
14 establish the organizational structure of the office as the child advocate
15 deems appropriate to carry out the responsibilities and functions of the
16 office.

17 (2) All budgeting, purchasing, personnel and related administrative
18 functions of the office shall be administered under the direction and
19 supervision of the child advocate.

20 (3) Within the limits of appropriations therefor, the child advocate
21 may hire such employees in the unclassified service as are necessary to
22 administer the office. Such employees shall serve at the pleasure of the
23 child advocate. Subject to appropriations and this subsection, the child
24 advocate may obtain the services of other professionals necessary to
25 independently perform the functions of the office, including obtaining
26 legal services as provided by K.S.A. 75-769, and amendments thereto.

27 New Sec. 3. (a) The purpose of the office of the child advocate is to
28 receive and resolve complaints from members of the legislature and from
29 persons involved with the child welfare system alleging that the Kansas
30 department for children and families, the department's contracting agencies
31 or the department of corrections has provided inadequate protection or
32 care of children and assist the legislature in conducting oversight of the
33 child welfare system to improve the safety and welfare of children.

34 (b) The office shall receive complaints that allege the Kansas
35 department for children and families, the department's contracting agencies
36 or the department of corrections by act or omission, failed to protect the
37 physical or mental health, safety or welfare of any child or failed to follow
38 established laws, rules and regulations or written policies. The child
39 advocate shall:

40 (1) Establish and implement procedures for receiving complaints;

41 (2) provide the Kansas department for children and families with a
42 notice of availability that describes the office and procedures for
43 contacting the office. The department shall ensure such notice is

1 prominently posted in department offices and facilities receiving public
2 moneys for the care and placement of children;

3 (3) maintain a publicly available website; and

4 (4) publicize and notify individuals of the office's services, purpose
5 and contact information.

6 (c) After consultation with the joint committee on child welfare
7 system oversight, the child advocate may establish limits for the type or
8 number of complaints the office receives to maintain the office's ability to
9 properly investigate and resolve such complaints considering the office's
10 personnel, resources, authority and expertise.

11 (d) The office shall independently investigate complaints received
12 pursuant to subsection (b) if the office reasonably believes the complaint's
13 allegations may be independently verified through an investigation. To
14 investigate, the office shall:

15 (1) Establish and implement procedures for investigating complaints;

16 (2) have access to the following information:

17 (A) The names and physical location of all children in protective
18 services, treatment or other programs under the jurisdiction of the Kansas
19 department for children and families or the department of corrections;

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

21 (C) all records of any public or private agency or institution having
22 custody of the child under court order, providing education, medical or
23 mental health services to the child or any placement or potential placement
24 provider determined by the secretary for children and families; and

25 (D) all current records required to be maintained pursuant to articles
26 22 and 23 of chapter 38 of the Kansas Statutes Annotated, and
27 amendments thereto;

28 (3) communicate privately with:

29 (A) Any child or child's siblings, after consultation with treatment
30 professionals and service providers; and

31 (B) anyone working with the child, including the family, relatives,
32 employees of the Kansas department for children and families or the
33 department of corrections and other persons or entities providing treatment
34 and services;

35 (4) have access to, including the right to inspect and copy, relevant
36 child records held by law enforcement agencies, the clerk of any Kansas
37 court, juvenile officers, public or private institutions and other agencies or
38 persons with whom a particular child has been either voluntarily or
39 otherwise placed for care or from whom the child has received treatment
40 within this state or in another state;

41 (5) work in conjunction with juvenile intake and assessment workers,
42 juvenile community corrections officers, guardians ad litem and court-
43 appointed special advocates; and

1 (6) subpoena materials or witnesses, take statements under oath, serve
2 interrogatories and obtain judicial enforcement of compulsory processes.

3 (e) To resolve complaints received pursuant to subsection (b), the
4 office shall:

5 (1) Establish and implement procedures to resolve the complaints;

6 (2) independently review the subject of the complaint and after the
7 initial review of the complaint and any accompanying material, the child
8 advocate may recommend that a department or contracting agency:

9 (A) Consider the matter further;

10 (B) modify or cancel the department or contracting agencies' actions;

11 (C) alter a rule, order or internal policy;

12 (D) explain the action further; or

13 (E) within a reasonable time after receiving a recommendation,
14 provide the office information concerning the department or contracting
15 agency action to implement or not implement recommendations made by
16 the office pursuant to this paragraph;

17 (3) submit any findings or recommendations pursuant to paragraph
18 (2) to the secretary for children and families or the secretary of corrections
19 as appropriate;

20 (4) upon reason to believe a criminal investigation is warranted, make
21 a referral of child abuse or neglect to an appropriate law enforcement
22 agency with jurisdiction over the matter and notify the abuse, neglect and
23 exploitation unit of the office of the attorney general; and

24 (5) produce reports of findings of fact or conclusions of law regarding
25 any complaint, and, if appropriate, the attorney general may file such
26 reports in any pending child in need of care case on behalf of the office.

27 (f) To assist the legislature in oversight of the child welfare system,
28 the office may:

29 (1) Meet and discuss any matter in the scope of the child advocate act
30 with the joint committee on child welfare system oversight in regular or
31 executive session under the same duties of confidentiality provided for the
32 child advocate;

33 (2) review relevant statutes, rules and regulations, policies and
34 procedures for the health, safety and welfare of children;

35 (3) evaluate the effectiveness of and recommend changes to
36 procedures for reports of child abuse and neglect for child protective
37 services, including, but not limited to, the involvement of the Kansas
38 department for children and families, service providers, guardians ad
39 litem, court appointed special advocates and law enforcement agencies;
40 and

41 (4) review and recommend changes to law enforcement investigative
42 procedures for and emergency responses to reports of abuse and neglect.

43 (g) On or before the beginning of each regular session of the

1 legislature, the office shall prepare and submit a report to the legislature
2 that includes recommendations for changes in statute, proposed annual
3 budget, personnel and any other topics the office deems appropriate to
4 properly perform the powers, duties and functions provided by the child
5 advocate act.

6 (h) The annual budget request of the office shall be prepared by the
7 child advocate and presented to the joint committee on child welfare
8 system oversight. Upon the approval of the joint committee on child
9 welfare system oversight, the child advocate shall be responsible for the
10 preparation of the budget for the office of the child advocate, with such
11 assistance as the child advocate may require. The child advocate shall
12 submit an annual budget request to the division of budget. Such budget
13 shall be prepared and submitted in the manner provided by K.S.A. 75-
14 3716 and 75-3717, and amendments thereto.

15 (i) To assist the office in the office's duties under the child advocate
16 act, employees of the Kansas department for children and families, the
17 department's contracting agencies, the department of corrections, juvenile
18 intake and assessment workers, juvenile community corrections officers,
19 guardians ad litem and court appointed special advocates shall:

20 (1) Work diligently, promptly and in good faith to assist the office in
21 performing the office's powers, duties and functions provided by the child
22 advocate act;

23 (2) provide full access to and production of records and information
24 requested by the office in the office's duties provided by the act. Such
25 access shall not be a violation of confidentiality of such records if
26 provided and produced in good faith for the purposes of the act;

27 (3) require employees and contractors of such department or agency
28 to comply with requests from the office in such office's duties provided by
29 the act;

30 (4) allow employees of such department or agency to file a complaint
31 with or provide records or information to the office without supervisory
32 approval;

33 (5) not willfully interfere with or obstruct any of the office's duties
34 provided by the act; and

35 (6) promptly meet and consult with the office upon request of the
36 office.

37 New Sec. 4. (a) For any information obtained from a state agency or
38 other entity under the child advocate act, the office shall be subject to the
39 same state and federal statutory disclosure restrictions and confidentiality
40 requirements that are applicable to the state agency or other entity
41 providing such information to the office.

42 (b) Any files maintained by the office shall be confidential and
43 disclosed only at the discretion of the child advocate, except that the

1 identity of any complainant or child shall not be disclosed by the office
2 unless:

3 (1) The complainant or child, respectively, or the complainant's or
4 child's legal representative, consents in writing to such disclosure; or

5 (2) such disclosure is required by court order.

6 (c) Any statement or communication made by the office relevant to a
7 complaint being investigated by the office and any complaint or
8 information made or provided in good faith by any person shall be
9 absolutely privileged, and such person shall be immune from suit.

10 (d) A representative of the office conducting or participating in any
11 investigation of a complaint shall not knowingly disclose to any person
12 other than the office, or a person authorized by the office, the name of any
13 witness examined or any information obtained or given during such
14 investigation. Violation of this subsection is a class A nonperson
15 misdemeanor.

16 (e) The office conducting or participating in any investigation of a
17 complaint shall disclose the final result of the investigation with the
18 consent of the child or child's legal representative.

19 (f) The office shall not be required to testify in any court with respect
20 to matters held to be confidential in this section, except as the court may
21 deem necessary to enforce the provisions of the child advocate act or when
22 otherwise required by court order.

23 (g) The provisions of this section providing for confidentiality of
24 records shall expire on July 1, 2028, unless the legislature acts to continue
25 such provisions. The legislature shall review this section pursuant to
26 K.S.A. 45-229, and amendments thereto, prior to July 1, 2028.

27 New Sec. 5. (a) (1) Except as provided by paragraph (2), no
28 retaliatory action shall knowingly be taken against any child or employee
29 of the Kansas department for children and families or the department of
30 corrections for any communication made or information given to the
31 office. Violation of this paragraph is a class A nonperson misdemeanor.

32 (2) Paragraph (1) shall not apply to an employee who discloses:

33 (A) Information that such employee knows to be false or information
34 without regard for the truth or falsity of the information; or

35 (B) without lawful authority, information that is confidential as
36 provided by any other provision of law.

37 (b) As used in this section, "retaliatory action" includes, but is not
38 limited to:

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

40 (2) transfer;

41 (3) demotion;

42 (4) reduction in pay;

43 (5) denial of promotion;

- 1 (6) suspension;
- 2 (7) dismissal; and
- 3 (8) denial of employment.

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

- 8 (1) The court having jurisdiction over the proceedings, including the
9 presiding judge and any court personnel designated by the judge.
- 10 (2) The parties to the proceedings and their attorneys.
- 11 (3) The guardian ad litem for a child who is the subject of the
12 proceeding.
- 13 (4) A court appointed special advocate for a child who is the subject
14 of the proceeding or a paid staff member of a court appointed special
15 advocate program.
- 16 (5) Any individual, or any public or private agency or institution,
17 having custody of the child under court order or providing educational,
18 medical or mental health services to the child or any placement provider or
19 potential placement provider as determined by the secretary or court
20 services officer.
- 21 (6) A citizen review board.
- 22 (7) The secretary of corrections or any agents designated by the
23 secretary of corrections.
- 24 (8) Any county or district attorney from another jurisdiction with a
25 pending child in need of care matter regarding any of the same parties.
- 26 (9) *The office of the child advocate pursuant to the child advocate*
27 *act*.
- 28 (10) Any other person when authorized by a court order, subject to
29 any conditions imposed by the order.

30 ~~(11)~~(11) The commission on judicial performance in the discharge of
31 the commission's duties pursuant to article 32 of chapter 20 of the Kansas
32 Statutes Annotated, and amendments thereto.

33 ~~(12)~~(12) An investigating law enforcement agency.

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 special advocate for a child who is the subject

1 of the proceeding or a paid staff member of a court appointed special
2 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) *The office of the child advocate pursuant to the child advocate*
11 *act.*

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

14 ~~(10)~~(11) An investigating law enforcement agency.

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

26 Sec. 7. K.S.A. 2022 Supp. 38-2212 is hereby amended to read as
27 follows: 38-2212. (a) *Principle of appropriate access.* Information
28 contained in confidential agency records concerning a child alleged or
29 adjudicated to be in need of care may be disclosed as provided in this
30 section and shall be disclosed as provided in subsection (e). Disclosure
31 shall in all cases be guided by the principle of providing access only to
32 persons or entities with a need for information that is directly related to
33 achieving the purposes of this code.

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

38 (c) *Necessary access.* The following persons or entities shall have
39 access to information from agency records. Access shall be limited to
40 information reasonably necessary to carry out their lawful responsibilities,
41 to maintain their personal safety and the personal safety of individuals in
42 their care, or to educate, diagnose, treat, care for or protect a child alleged
43 to be in need of care. Information authorized to be disclosed pursuant to

1 this subsection shall not contain information that identifies a reporter of a
2 child who is alleged or adjudicated to be a child in need of care.

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

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

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

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

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

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

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

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

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

20 (7) The state child death review board established under K.S.A. 22a-
21 243, and amendments thereto.

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

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

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

33 (B) circumstances that necessitated placement;

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

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

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

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

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

1 thereto.

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

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

7 (13) *The office of the child advocate pursuant to the child advocate*
8 *act.*

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

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

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

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

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

41 (A) The individuals involved or their representatives have given
42 express written consent; or

43 (B) the investigation of the abuse or neglect of the child or the filing

1 of a petition alleging a child to be in need of care has become public
2 knowledge, provided, however, that the agency shall limit disclosure to
3 confirmation of procedural details relating to the handling of the case by
4 professionals.

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

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

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

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

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

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

15 (A) Age and sex of the child;

16 (B) date of the fatality;

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

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

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

27 (A) Age and sex of the child;

28 (B) date of the fatality; and

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

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

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

41 Sec. 8. K.S.A. 38-2213 is hereby amended to read as follows: 38-
42 2213. (a) *Principle of limited disclosure*. Information contained in
43 confidential law enforcement records concerning a child alleged or

1 adjudicated to be in need of care may be disclosed as provided in this
2 section. Disclosure shall in all cases be guided by the principle of
3 providing access only to persons or entities with a need for information
4 that is directly related to achieving the purposes of this code.

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

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

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

15 (2) The secretary.

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

17 (4) Law enforcement officers or county or district attorneys or their
18 staff.

19 (5) Any juvenile intake and assessment worker.

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

21 (7) *The office of the child advocate pursuant to the child advocate*
22 *act.*

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

27 ~~(8)(9)~~ Persons or entities allowed access pursuant to ~~subsection (f) of~~
28 K.S.A. 38-2212(f), and amendments thereto.

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

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

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

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

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

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

32 Sec. 9. K.S.A. 38-2309 is hereby amended to read as follows: 38-
33 2309. (a) *Official file.* The official file of proceedings pursuant to this code
34 shall consist of the complaint, process, service of process, orders, writs and
35 journal entries reflecting hearings held, judgments and decrees entered by
36 the court. The official file shall be kept separate from other records of the
37 court.

38 (b) The official file shall be open for public inspection, unless the
39 judge determines that opening the official file for public inspection is not
40 in the best interests of a juvenile who is less than 14 years of age.
41 Information identifying victims and alleged victims of sex offenses, as
42 defined in article 35 of chapter 21 of the Kansas Statutes Annotated, prior
43 to their repeal, or article 55 of chapter 21 of the Kansas Statutes

1 Annotated, or K.S.A. 2022 Supp. 21-6419 through 21-6422, and
2 amendments thereto, or human trafficking or aggravated human
3 trafficking, as defined in K.S.A. 21-3446 or 21-3447, prior to their repeal,
4 or K.S.A. 2022 Supp. 21-5426, and amendments thereto, shall not be
5 disclosed or open to public inspection under any circumstances. Nothing in
6 this section shall prohibit the victim or alleged victim of any sex offense
7 from voluntarily disclosing such victim's identity. An official file closed
8 pursuant to this section and information identifying the victim or alleged
9 victim of any sex offense shall be disclosed only to the following:

10 (1) A judge of the district court and members of the staff of the court
11 designated by the judge;

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

13 (3) any individual or any public or private agency or institution: (A)
14 Having custody of the juvenile under court order; or (B) providing
15 educational, medical or mental health services to the juvenile;

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

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

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

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

26 (8) juvenile intake and assessment workers;

27 (9) ~~the commissioner~~ *secretary of corrections*;

28 (10) *the office of the child advocate pursuant to the child advocate*
29 *act*;

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

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

35 (c) *Social file.* (1) Reports and information received by the court,
36 other than the official file, shall be privileged and open to inspection only
37 by the following:

38 (A) Attorneys for the parties;

39 (B) juvenile intake and assessment workers;

40 (C) court appointed special advocates;

41 (D) juvenile community corrections officers;

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

43 (F) *the office of the child advocate pursuant to the child advocate*

1 ~~act; or upon~~

2 (G) any other person when authorized by the order of a judge of the
3 district court or appellate court.

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

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

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

25 Sec. 10. K.S.A. 38-2310 is hereby amended to read as follows: 38-
26 2310. (a) All records of law enforcement officers and agencies and
27 municipal courts concerning an offense committed or alleged to have been
28 committed by a juvenile under 14 years of age shall be kept readily
29 distinguishable from criminal and other records and shall not be disclosed
30 to anyone except:

31 (1) The judge of the district court and members of the staff of the
32 court designated by the judge;

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

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

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

39 (5) any educational institution, to the extent necessary to enable the
40 educational institution to provide the safest possible environment for its
41 pupils and employees;

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

- 1 (7) law enforcement officers or county or district attorneys, or their
2 staff, when necessary for the discharge of their official duties;
- 3 (8) the central repository, as defined by K.S.A. 22-4701, and
4 amendments thereto, for use only as a part of the juvenile offender
5 information system established under K.S.A. 38-2326, and amendments
6 thereto;
- 7 (9) juvenile intake and assessment workers;
- 8 (10) the department of corrections;
- 9 (11) juvenile community corrections officers;
- 10 (12) the interstate compact for juveniles compact administrator for
11 the purpose of carrying out the responsibilities related to the interstate
12 compact for juveniles;
- 13 (13) *the office of the child advocate pursuant to the child advocate*
14 *act*;
- 15 (14) any other person when authorized by a court order, subject to any
16 conditions imposed by the order; and
- 17 ~~(14)~~(15) as provided in subsection (c).
- 18 (b) The provisions of this section shall not apply to records
19 concerning:
- 20 (1) A violation, by a person 14 or more years of age, of any provision
21 of chapter 8 of the Kansas Statutes Annotated, and amendments thereto, or
22 of any city ordinance or county resolution which relates to the regulation
23 of traffic on the roads, highways or streets or the operation of self-
24 propelled or nonself-propelled vehicles of any kind;
- 25 (2) a violation, by a person 16 or more years of age, of any provision
26 of chapter 32 of the Kansas Statutes Annotated, and amendments thereto;
27 or
- 28 (3) an offense for which the juvenile is prosecuted as an adult.
- 29 (c) All records of law enforcement officers and agencies and
30 municipal courts concerning an offense committed or alleged to have been
31 committed by a juvenile 14 or more years of age shall be subject to the
32 same disclosure restrictions as the records of adults. Information
33 identifying victims and alleged victims of sex offenses, as defined in
34 article 35 of chapter 21 of the Kansas Statutes Annotated, prior to their
35 repeal, or article 55 of chapter 21 of the Kansas Statutes Annotated, and
36 amendments thereto, K.S.A. 2022 Supp. 21-6419 through 21-6422, and
37 amendments thereto, or human trafficking or aggravated human
38 trafficking, as defined in K.S.A. 21-3446 or 21-3447, prior to their repeal,
39 or K.S.A. 2022 Supp. 21-5426, and amendments thereto, shall not be
40 disclosed or open to public inspection under any circumstances. Nothing in
41 this section shall prohibit the victim or any alleged victim of any sex
42 offense from voluntarily disclosing such victim's identity.
- 43 (d) Relevant information, reports and records, shall be made available

1 to the department of corrections upon request and a showing that the
2 former juvenile has been convicted of a crime and placed in the custody of
3 the secretary of corrections.

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

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

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

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

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

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

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

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

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

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

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

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

43 (J) a citizen review board pursuant to K.S.A. 38-2207, and

1 amendments thereto;

2 (K) an educational institution to the extent necessary to enable such
3 institution to provide the safest possible environment for pupils and
4 employees of the institution;

5 (L) any educator to the extent necessary for the protection of the
6 educator and pupils;

7 (M) any juvenile intake and assessment worker of another certified
8 juvenile intake and assessment program; ~~and~~

9 (N) the interstate compact for juveniles compact administrator for the
10 purpose of carrying out the responsibilities related to the interstate
11 compact for juveniles; *and*

12 *(O) the office of the child advocate pursuant to the child advocate*
13 *act.*

14 Sec. 11. K.S.A. 38-2213, 38-2309 and 38-2310 and K.S.A. 2022
15 Supp. 38-2311 and 38-2312 are hereby repealed.

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