

**HOUSE BILL No. 2187**

By Committee on Children and Seniors

2-7

1 AN ACT establishing the office of the child advocate for children's  
2 protection and services within the department of administration;  
3 prescribing certain powers, duties and functions; amending K.S.A.  
4 2018 Supp. 38-2211, 38-2212, 38-2213, 38-2309 and 38-2310 and  
5 repealing the existing sections; also repealing K.S.A. 2018 Supp. 38-  
6 2212a.

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

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

11 (a) "Office" means the office of the child advocate for children's  
12 protection and services within the department of administration and  
13 includes the child advocate and staff; and

14 (b) "recipient" means any child who is receiving services from the  
15 Kansas department for children and families or the department of  
16 corrections.

17 New Sec. 2. (a) There is hereby established within the department of  
18 administration the office of the child advocate for children's protection and  
19 services for the purpose of assuring that children receive adequate  
20 protection and care through services offered by the Kansas department for  
21 children and families and the department of corrections.

22 (b) The office shall be administered by the child advocate, who shall  
23 be jointly appointed by the governor and the chief justice of the supreme  
24 court with the advice and consent of the senate. The child advocate shall  
25 report directly to the secretary of administration. The child advocate shall  
26 hold office for a term of six years and shall continue to hold office until a  
27 successor has been duly appointed. The child advocate shall act  
28 independently of the Kansas department for children and families and the  
29 department of corrections in the performance of the child advocate's  
30 duties. The department of administration shall provide administrative  
31 support and staff to the office as deemed necessary by the child advocate.

32 (c) For the fiscal year ending June 30, 2020, and for each fiscal year  
33 thereafter, the secretary of administration shall include the budget estimate  
34 of the office, as prepared and approved by the child advocate, along with  
35 the budget estimate prepared and submitted to the division of the budget  
36 for the department of administration under K.S.A. 75-3717, and

1 amendments thereto. The budget estimate of the office for each such fiscal  
2 year shall be prepared at the direction and under the supervision of the  
3 child advocate. Expenditures from appropriations to the department of  
4 administration for the office, made pursuant to budget estimates for the  
5 office, shall be made on vouchers approved by the child advocate or the  
6 child advocate's designee. All vouchers for expenditures and all payrolls of  
7 the office shall be approved by the child advocate or the child advocate's  
8 designee.

9 New Sec. 3. (a) The office of the child advocate for children's  
10 protection and services shall have access to the following information:

11 (1) The names and physical location of all children in protective  
12 services, treatment or other programs under the jurisdiction of the Kansas  
13 department for children and families or the department of corrections;

14 (2) all written reports of child abuse and neglect; and

15 (3) all current records required to be maintained pursuant to articles  
16 22 and 23 of chapter 38 of the Kansas Statutes Annotated, and  
17 amendments thereto.

18 (b) The office shall have the authority:

19 (1) To communicate, privately, with any child under protective  
20 services and anyone working with the child, including the family, relatives,  
21 employees of the Kansas department for children and families or the  
22 department of corrections and other persons or entities providing treatment  
23 and services;

24 (2) to access, including the right to inspect, copy and subpoena,  
25 relevant child records held by law enforcement agencies, the clerk of any  
26 Kansas court, juvenile officers, public or private institutions and other  
27 agencies or persons with whom a particular child has been either  
28 voluntarily or otherwise placed for care or from whom the child has  
29 received treatment within this state or in another state;

30 (3) to work in conjunction with juvenile officers and guardians ad  
31 litem;

32 (4) to file any findings or reports of the child advocate regarding the  
33 parent or child with the appropriate court and issue recommendations  
34 regarding the disposition of an investigation to the court and to the  
35 investigating agency;

36 (5) to file amicus curiae briefs on behalf of the interests of the parent  
37 or child;

38 (6) to utilize the resources of the office of the attorney general, as  
39 necessary, to carry out any duties of the child advocate for children's  
40 protection and services that require legal counsel or services, as authorized  
41 pursuant to sections 1 through 8, and amendments thereto;

42 (7) to initiate meetings with personnel from the Kansas department  
43 for children and families or the department of corrections;

1 (8) to take whatever steps are appropriate to ensure that individuals  
2 are made aware of the services of the office, its purpose and how it can be  
3 contacted;

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

10 (10) subject to appropriations, to establish local panels as needed on a  
11 regional or county basis to adequately and efficiently carry out the  
12 functions and duties of the office and address complaints in a timely  
13 manner.

14 (c) (1) For any information obtained from a state agency or other  
15 entity under sections 1 through 8, and amendments thereto, the office shall  
16 be subject to the same state and federal statutory disclosure restrictions and  
17 confidentiality requirements that are applicable to the state agency or other  
18 entity providing such information to the office.

19 (2) The provisions of this subsection providing for confidentiality of  
20 records shall expire on July 1, 2024, unless the legislature reenacts such  
21 provisions. The legislature shall review this subsection pursuant to K.S.A.  
22 45-229, and amendments thereto, prior to July 1, 2024.

23 New Sec. 4. (a) The office of the child advocate for children's  
24 protection and services shall establish and implement procedures for  
25 receiving, processing, responding to and resolving complaints made by or  
26 on behalf of children who are recipients of services from the Kansas  
27 department for children and families or the department of corrections.  
28 Such procedures shall address complaints relating to the actions, inactions  
29 or decisions of service providers, including contractors, subcontractors and  
30 any juvenile court, that may adversely affect the health, safety, welfare or  
31 rights of such recipient.

32 (b) The office shall establish and implement procedures for the  
33 handling and, whenever possible, the resolution of complaints.

34 (c) The office shall have the authority to make the necessary inquiries  
35 and review relevant information and records as the office deems necessary.

36 (d) The office may recommend to any state or local agency changes  
37 in the rules and regulations adopted or proposed by such state or local  
38 agency that adversely affect or may adversely affect the health, safety,  
39 welfare or civil or human rights of any recipient. The office shall  
40 recommend changes to any current policies and procedures. The office  
41 shall analyze and monitor the development and implementation of federal,  
42 state and local laws, rules and regulations and policies with respect to  
43 services in the state and shall recommend to the Kansas department for

1 children and families, the department of corrections, courts, the legislature  
2 and the governor changes in such laws, rules and regulations and policies  
3 deemed by the office to be appropriate.

4 (e) The office shall inform recipients, their guardians or their families  
5 of their rights and entitlements under state and federal laws and rules and  
6 regulations through the distribution of educational materials.

7 (f) The office shall annually submit to the governor, the legislature  
8 and the supreme court a detailed report on the work of the office. Such  
9 report shall include, but not be limited to, the number of complaints  
10 received by the office, the disposition of such complaints, the number of  
11 recipients involved in such complaints, the state entities named in such  
12 complaints and whether such complaints were found to be substantiated  
13 and any recommendations for improving the delivery of services to reduce  
14 complaints or improving the function of the office.

15 New Sec. 5. (a) The office of the child advocate for children's  
16 protection and services shall have the authority to and may conduct an  
17 independent review of any entity within a county that has experienced  
18 three or more reports of child abuse or neglect in a calendar year,  
19 including, but not limited to, the Kansas department for children and  
20 families, the department of corrections or any guardian ad litem. The office  
21 shall establish and implement procedures for reviewing any such entity.

22 (b) The office shall have the authority to make the necessary inquiries  
23 and review relevant information and records as the office deems necessary  
24 in order to conduct such reviews.

25 (c) The office may recommend changes to any entity's policies and  
26 procedures based on the results of the review in order to improve the  
27 delivery of services or the function of the entity. Upon completing a  
28 review under this section, the office shall submit any findings and  
29 recommendations to the Kansas department for children and families and  
30 the department of corrections.

31 New Sec. 6. (a) The secretary for children and families and the  
32 secretary of corrections shall enter into agreements with the office of the  
33 child advocate for children's protection and services for the provision of  
34 financial assistance to the office by the Kansas department for children and  
35 families and the department of corrections from available state and federal  
36 funds of the Kansas department for children and families and the  
37 department of corrections. This financial assistance shall be to assist the  
38 child advocate to provide child advocacy services in accordance with  
39 sections 1 through 8, and amendments thereto.

40 (b) For the fiscal year ending June 30, 2020, and for each fiscal year  
41 thereafter, the secretary for children and families and the secretary of  
42 corrections shall include in the budget estimates prepared and submitted to  
43 the division of the budget for the Kansas department for children and

1 families and the department of corrections under K.S.A. 75-3717, and  
2 amendments thereto, in addition to other amounts included in such budget  
3 estimates for the Kansas department for children and families and the  
4 department of corrections, amounts to be provided to the office during  
5 such fiscal year pursuant to this section. The amounts included in each  
6 such budget estimate to be provided to the office shall include amounts to  
7 be appropriated from federal moneys provided to the Kansas department  
8 for children and families and the department of corrections. Commencing  
9 in the fiscal year ending on June 30, 2021, in no case shall the aggregate of  
10 the amounts included in any such budget estimates of the Kansas  
11 department for children and families and the department of corrections that  
12 are to be provided to the office be less than the aggregate of all moneys  
13 provided during the fiscal year ending June 30, 2020, by the Kansas  
14 department for children and families and the department of corrections for  
15 the office from appropriations to the Kansas department for children and  
16 families and the department of corrections, including moneys received  
17 under the federal programs for children. The aggregate amounts included  
18 in each such budget estimates of the Kansas department for children and  
19 families and the department of corrections that are to be provided to the  
20 office shall be adjusted appropriately for increases attributable to inflation  
21 and other applicable factors.

22 New Sec. 7. (a) Any files maintained by the office of the child  
23 advocate for children's protection and services shall be disclosed only at  
24 the discretion of the child advocate, except that the identity of any  
25 complainant or recipient shall not be disclosed by the office unless:

26 (1) The complainant or recipient, respectively, or the complainant's or  
27 recipient's legal representative, consents in writing to such disclosure; or

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

29 (b) Any statement or communication made by the office relevant to a  
30 complaint being addressed by the office and any complaint or information  
31 made or provided in good faith by any person shall be absolutely  
32 privileged, and such person shall be immune from suit.

33 (c) Any representative of the office conducting or participating in any  
34 examination of a complaint who knowingly and willfully discloses to any  
35 person other than the office, or those persons authorized by the office to  
36 receive it, the name of any witness examined or any information obtained  
37 or given during such examination shall be guilty of a class A nonperson  
38 misdemeanor. However, the office conducting or participating in any  
39 examination of a complaint shall disclose the final result of the  
40 examination with the consent of the recipient.

41 (d) The office shall not be required to testify in any court with respect  
42 to matters held to be confidential in this section, except as the court may  
43 deem necessary to enforce the provisions of sections 1 through 8, and

1 amendments thereto, or when otherwise required by court order.

2 (e) The provisions of this section providing for confidentiality of  
3 records shall expire on July 1, 2024, unless the legislature reenacts such  
4 provisions. The legislature shall review this section pursuant to K.S.A. 45-  
5 229, and amendments thereto, prior to July 1, 2024.

6 New Sec. 8. (a) Any employee of the office of the child advocate for  
7 children's protection and services shall be treated as a representative of the  
8 office. No representative of the office shall be held liable for good faith  
9 performance of such representative's official duties under the provisions of  
10 sections 1 through 8, and amendments thereto, and such representative  
11 shall be immune from suit for the good faith performance of such duties.  
12 Every representative of the office shall be considered an employee of the  
13 state of Kansas.

14 (b) (1) Except as provided in paragraph (2), no reprisal or retaliatory  
15 action shall be taken against any recipient or employee of the Kansas  
16 department for children and families or the department of corrections for  
17 any communication made or information given to the office. Any person  
18 who knowingly or willfully violates the provisions of this paragraph shall  
19 be guilty of a class A nonperson misdemeanor.

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

21 (A) Information that such employee knows to be false or who  
22 discloses information with disregard for the truth or falsity of the  
23 information; or

24 (B) without lawful authority, information that is confidential under  
25 any other provision of law.

26 (c) As used in this section, "reprisal or retaliatory action" means, but  
27 is not limited to:

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

29 (2) transfer;

30 (3) demotion;

31 (4) reduction in pay;

32 (5) denial of promotion;

33 (6) suspension;

34 (7) dismissal; and

35 (8) denial of employment.

36 Sec. 9. K.S.A. 2018 Supp. 38-2211 is hereby amended to read as  
37 follows: 38-2211. (a) *Access to the official file*. The following persons or  
38 entities shall have access to the official file of a child in need of care  
39 proceeding pursuant to this code:

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

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

43 (3) The guardian ad litem for a child who is the subject of the

1 proceeding.

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

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

10 (6) A citizen review board.

11 (7) The secretary of corrections or any agents designated by the  
 12 secretary of corrections.

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

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

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

20 (11) *The office of the child advocate for children's protection and*  
 21 *services, pursuant to sections 1 through 8, and amendments thereto.*

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

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

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

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

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

34 (5) A citizen review board.

35 (6) The secretary.

36 (7) The secretary of corrections or any agents designated by the  
 37 secretary of corrections.

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

41 (9) *The office of the child advocate for children's protection and*  
 42 *services, pursuant to sections 1 through 8, and amendments thereto.*

43 (10) Any other person when authorized by a court order, subject to

1 any conditions imposed by the order.

2 (c) *Preservation of records.* The Kansas state historical society shall  
3 be allowed to take possession for preservation in the state archives of any  
4 court records related to proceedings under the Kansas code for care of  
5 children whenever such records otherwise would be destroyed. No such  
6 records in the custody of the Kansas state historical society shall be  
7 disclosed directly or indirectly to anyone for 70 years after creation of the  
8 records, except as provided in subsections (a) and (b). Pursuant to  
9 subsections (a)(9) and (b)(9), a judge of the district court may allow  
10 inspection for research purposes of any court records in the custody of the  
11 Kansas state historical society related to proceedings under the Kansas  
12 code for care of children.

13 Sec. 10. K.S.A. 2018 Supp. 38-2212 is hereby amended to read as  
14 follows: 38-2212. (a) *Principle of appropriate access.* Information  
15 contained in confidential agency records concerning a child alleged or  
16 adjudicated to be in need of care may be disclosed as provided in this  
17 section. Disclosure shall in all cases be guided by the principle of  
18 providing access only to persons or entities with a need for information  
19 that is directly related to achieving the purposes of this code.

20 (b) *Free exchange of information.* Pursuant to K.S.A. 2018 Supp. 38-  
21 2210, and amendments thereto, the secretary and juvenile intake and  
22 assessment agencies shall participate in the free exchange of information  
23 concerning a child who is alleged or adjudicated to be in need of care.

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

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

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

37 (3) A court-appointed special advocate for a child, a citizen review  
38 board or other advocate—~~which~~ *that* reports to the court.

39 (4) A person licensed to practice the healing arts or mental health  
40 profession in order to diagnose, care for, treat or supervise: (A) A child  
41 whom such service provider reasonably suspects may be in need of care;  
42 (B) a member of the child's family; or (C) a person who allegedly abused  
43 or neglected the child.



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

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

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

8 (8) An attorney for a private party who files a petition pursuant to  
9 K.S.A. 2018 Supp. 38-2233(b), and amendments thereto.

10 (9) A foster parent, prospective foster parent, permanent custodian,  
11 prospective permanent custodian, adoptive parent or prospective adoptive  
12 parent. In order to assist such persons in making an informed decision  
13 regarding acceptance of a particular child, to help the family anticipate  
14 problems ~~which~~ *that* may occur during the child's placement, and to help  
15 the family meet the needs of the child in a constructive manner, the  
16 secretary shall seek and shall provide the following information to such  
17 persons as the information becomes available to the secretary:

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

19 (B) circumstances ~~which~~ *that* necessitated placement;

20 (C) information about the child's family and the child's relationship to  
21 the family ~~which~~ *that* may affect the placement;

22 (D) important life experiences and relationships ~~which~~ *that* may  
23 affect the child's feelings, behavior, attitudes or adjustment;

24 (E) medical history of the child, including third-party coverage ~~which~~  
25 *that* may be available to the child; and

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

28 (10) The state protection and advocacy agency as provided by K.S.A.  
29 65-5603(a)(10) or ~~K.S.A.~~ 74-5515(a)(2)(A) and (B), and amendments  
30 thereto.

31 (11) Any educational institution to the extent necessary to enable the  
32 educational institution to provide the safest possible environment for its  
33 pupils and employees.

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

36 (13) *The office of the child advocate for children's protection and*  
37 *services, pursuant to sections 1 through 8, and amendments thereto.*

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

42 (d) *Specified access.* The following persons or entities shall have  
43 access to information contained in agency records as specified.

1 Information authorized to be disclosed pursuant to this subsection shall not  
2 contain information—~~which~~ *that* identifies a reporter of a child who is  
3 alleged or adjudicated to be a child in need of care.

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

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

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

27 (A) The individuals involved or their representatives have given  
28 express written consent; or

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

34 (e) *Court order*: Notwithstanding the provisions of this section, a  
35 court of competent jurisdiction, after in camera inspection, may order  
36 disclosure of confidential agency records pursuant to a determination that  
37 the disclosure is in the best interests of the child who is the subject of the  
38 reports or that the records are necessary for the proceedings of the court.  
39 The court shall specify the terms of disclosure and impose appropriate  
40 limitations.

41 (f) (1) Notwithstanding any other provision of law to the contrary,  
42 except as provided in paragraph (6), in the event that child abuse or  
43 neglect results in a child fatality or near fatality, reports or records of a

1 child alleged or adjudicated to be in need of care received by the secretary,  
2 a law enforcement agency or any juvenile intake and assessment worker  
3 shall become a public record and subject to disclosure pursuant to K.S.A.  
4 45-215, and amendments thereto.

5 (2) Within seven days of receipt of a request in accordance with the  
6 procedures adopted under K.S.A. 45-220, and amendments thereto, the  
7 secretary shall notify any affected individual that an open records request  
8 has been made concerning such records. The secretary or any affected  
9 individual may file a motion requesting the court to prevent disclosure of  
10 such record or report, or any select portion thereof. Notice of the filing of  
11 such motion shall be provided to all parties requesting the records or  
12 reports, and such party or parties shall have a right to hearing, upon  
13 request, prior to the entry of any order on such motion. If the affected  
14 individual does not file such motion within seven days of notification, and  
15 the secretary has not filed a motion, the secretary shall release the reports  
16 or records. If such motion is filed, the court shall consider the effect such  
17 disclosure may have upon an ongoing criminal investigation, a pending  
18 prosecution, or the privacy of the child, if living, or the child's siblings,  
19 parents or guardians, and the public's interest in the disclosure of such  
20 records or reports. The court shall make written findings on the record  
21 justifying the closing of the records and shall provide a copy of the journal  
22 entry to the affected parties and the individual requesting disclosure  
23 pursuant to the Kansas open records act, K.S.A. 45-215 et seq., and  
24 amendments thereto.

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

- 30 (A) Age and sex of the child;
- 31 (B) date of the fatality;
- 32 (C) a summary of any previous reports of abuse or neglect received  
33 by the secretary involving the child, along with the findings of such  
34 reports; and
- 35 (D) any department recommended services provided to the child.

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

- 42 (A) Age and sex of the child;
- 43 (B) date of the fatality; and

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

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

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

13 Sec. 11. K.S.A. 2018 Supp. 38-2213 is hereby amended to read as  
14 follows: 38-2213. (a) *Principle of limited disclosure.* Information  
15 contained in confidential law enforcement records concerning a child  
16 alleged or adjudicated to be in need of care may be disclosed as provided  
17 in this section. Disclosure shall in all cases be guided by the principle of  
18 providing access only to persons or entities with a need for information  
19 that is directly related to achieving the purposes of this code.

20 (b) *Free exchange of information.* Pursuant to K.S.A. 2018 Supp. 38-  
21 2210, and amendments thereto, a law enforcement agency shall participate  
22 in the free exchange of information concerning a child who is alleged or  
23 adjudicated to be in need of care.

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

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 secretary.

31 (3) The commissioner of juvenile justice.

32 (4) Law enforcement officers or county or district attorneys or their  
33 staff.

34 (5) Any juvenile intake and assessment worker.

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

36 (7) *The office of the child advocate for children's protection and*  
37 *services, pursuant to sections 1 through 8, and amendments thereto.*

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

42 ~~(8)(9)~~ Persons or entities allowed access pursuant to ~~subsection (f)~~ of  
43 K.S.A. 2018 Supp. 38-2212(f), and amendments thereto.

1 (d) *Necessary access.* The following persons or entities shall have  
2 access to information from law enforcement records when reasonably  
3 necessary to carry out their lawful responsibilities, to maintain their  
4 personal safety and the personal safety of individuals in their care, or to  
5 educate, diagnose, treat, care for or protect a child alleged or adjudicated  
6 to be in need of care. Information authorized to be disclosed in this  
7 subsection shall not contain information ~~which~~ *that* identifies a reporter of  
8 a child alleged or adjudicated to be a child in need of care.

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

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

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

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

40 (f) *Court order.* Notwithstanding the provisions of this section, a  
41 court of competent jurisdiction, after in camera inspection, may order  
42 disclosure of confidential law enforcement records pursuant to a  
43 determination that the disclosure is in the best interests of the child who is

1 the subject of the reports or that the records are necessary for the  
2 proceedings of the court and otherwise admissible as evidence. The court  
3 shall specify the terms of disclosure and impose appropriate limitations.

4 Sec. 12. K.S.A. 2018 Supp. 38-2309 is hereby amended to read as  
5 follows: 38-2309. (a) *Official file*. The official file of proceedings pursuant  
6 to this code shall consist of the complaint, process, service of process,  
7 orders, writs and journal entries reflecting hearings held, judgments and  
8 decrees entered by the court. The official file shall be kept separate from  
9 other records of the court.

10 (b) The official file shall be open for public inspection, unless the  
11 judge determines that opening the official file for public inspection is not  
12 in the best interests of a juvenile who is less than 14 years of age.  
13 Information identifying victims and alleged victims of sex offenses, as  
14 defined in article 35 of chapter 21 of the Kansas Statutes Annotated, prior  
15 to their repeal, or article 55 of chapter 21 of the Kansas Statutes  
16 Annotated, or K.S.A. 2018 Supp. 21-6419 through 21-6422, and  
17 amendments thereto, or human trafficking or aggravated human  
18 trafficking, as defined in K.S.A. 21-3446 or 21-3447, prior to their repeal,  
19 or K.S.A. 2018 Supp. 21-5426, and amendments thereto, shall not be  
20 disclosed or open to public inspection under any circumstances. Nothing in  
21 this section shall prohibit the victim or alleged victim of any sex offense  
22 from voluntarily disclosing such victim's identity. An official file closed  
23 pursuant to this section and information identifying the victim or alleged  
24 victim of any sex offense shall be disclosed only to the following:

25 (1) A judge of the district court and members of the staff of the court  
26 designated by the judge;

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

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

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

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

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

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

41 (8) juvenile intake and assessment workers;

42 (9) the commissioner;

43 (10) *the office of the child advocate for children's protection and*

1 *services, pursuant to sections 1 through 8, and amendments thereto;*

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

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

7 (c) *Social file.* Reports and information received by the court, other  
8 than the official file, shall be privileged and open to inspection only by *the*  
9 *following:*

10 (1) Attorneys for the parties;;

11 (2) juvenile intake and assessment workers;;

12 (3) court appointed special advocates;;

13 (4) juvenile community corrections officers;;

14 (5) the juvenile's guardian ad litem, if any;;

15 (6) *the office of the child advocate for children's protection and*  
16 *services, pursuant to sections 1 through 8, and amendments thereto; or*  
17 ~~upon~~

18 (7) *any other person when authorized by the order of a judge of the*  
19 *district court or appellate court.*

20 The reports shall not be further disclosed without approval of the court  
21 or by being presented as admissible evidence.

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

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

41 Sec. 13. K.S.A. 2018 Supp. 38-2310 is hereby amended to read as  
42 follows: 38-2310. (a) All records of law enforcement officers and agencies  
43 and municipal courts concerning an offense committed or alleged to have

1 been committed by a juvenile under 14 years of age shall be kept readily  
 2 distinguishable from criminal and other records and shall not be disclosed  
 3 to anyone except:

4 (1) The judge of the district court and members of the staff of the  
 5 court designated by the judge;

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

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

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

12 (5) any educational institution, to the extent necessary to enable the  
 13 educational institution to provide the safest possible environment for its  
 14 pupils and employees;

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

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

19 (8) the central repository, as defined by K.S.A. 22-4701, and  
 20 amendments thereto, for use only as a part of the juvenile offender  
 21 information system established under K.S.A. 2018 Supp. 38-2326, and  
 22 amendments thereto;

23 (9) juvenile intake and assessment workers;

24 (10) the department of corrections;

25 (11) juvenile community corrections officers;

26 (12) the interstate compact for juveniles compact administrator for  
 27 the purpose of carrying out the responsibilities related to the interstate  
 28 compact for juveniles;

29 (13) *the office of the child advocate for children's protection and*  
 30 *services, pursuant to sections 1 through 8, and amendments thereto;*

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

33 ~~(14)~~(15) as provided in subsection (c).

34 (b) The provisions of this section shall not apply to records  
 35 concerning:

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

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

43 or



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

2 (c) All records of law enforcement officers and agencies and  
3 municipal courts concerning an offense committed or alleged to have been  
4 committed by a juvenile 14 or more years of age shall be subject to the  
5 same disclosure restrictions as the records of adults. Information  
6 identifying victims and alleged victims of sex offenses, as defined in  
7 article 35 of chapter 21 of the Kansas Statutes Annotated, prior to their  
8 repeal, or article 55 of chapter 21 of the Kansas Statutes Annotated, and  
9 amendments thereto, K.S.A. 2018 Supp. 21-6419 through 21-6422, and  
10 amendments thereto, or human trafficking or aggravated human  
11 trafficking, as defined in K.S.A. 21-3446 or 21-3447, prior to their repeal,  
12 or K.S.A. 2018 Supp. 21-5426, and amendments thereto, shall not be  
13 disclosed or open to public inspection under any circumstances. Nothing in  
14 this section shall prohibit the victim or any alleged victim of any sex  
15 offense from voluntarily disclosing such victim's identity.

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

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

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

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

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

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

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

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

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

41 (F) an agency charged with the responsibility of preventing or  
42 treating physical, mental or emotional abuse or neglect or sexual abuse of  
43 children, if the agency requesting the information has standards of

1 confidentiality as strict or stricter than the requirements of the Kansas code  
2 for care of children or the revised Kansas juvenile justice code, whichever  
3 is applicable;

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

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

8 (I) any individual, or public or private agency authorized by a  
9 properly constituted authority to diagnose, care for, treat or supervise a  
10 juvenile who is the subject of a report or record of child abuse or neglect,  
11 specifically including the following: Physicians, psychiatrists, nurses,  
12 nurse practitioners, psychologists, licensed social workers, child  
13 development specialists, physician assistants, community mental health  
14 workers, addiction counselors and licensed or registered child care  
15 providers;

16 (J) a citizen review board pursuant to K.S.A. 2018 Supp. 38-2207,  
17 and amendments thereto;

18 (K) an educational institution to the extent necessary to enable such  
19 institution to provide the safest possible environment for pupils and  
20 employees of the institution;

21 (L) any educator to the extent necessary for the protection of the  
22 educator and pupils;

23 (M) any juvenile intake and assessment worker of another certified  
24 juvenile intake and assessment program; ~~and~~

25 (N) the interstate compact for juveniles compact administrator for the  
26 purpose of carrying out the responsibilities related to the interstate  
27 compact for juveniles; *and*

28 *(O) the office of the child advocate for children's protection and*  
29 *services, pursuant to sections 1 through 8, and amendments thereto.*

30 Sec. 14. K.S.A. 2018 Supp. 38-2211, 38-2212, 38-2212a, 38-2213,  
31 38-2309 and 38-2310 are hereby repealed.

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