

## SENATE BILL No. 129

By Committee on Corrections and Juvenile Justice

2-2

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1 AN ACT concerning reports of abuse or neglect; relating to children and  
2 certain adults; amending K.S.A. 2014 Supp. 38-2223, 38-2226 and 39-  
3 1431 and repealing the existing sections.

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

6 Section 1. K.S.A. 2014 Supp. 38-2223 is hereby amended to read as  
7 follows: 38-2223. (a) *Persons making reports.* (1) When any of the  
8 following persons has reason to suspect that a child has been harmed as a  
9 result of physical, mental or emotional abuse or neglect or sexual abuse,  
10 the person shall report the matter promptly as provided in subsections (b)  
11 and (c);

12 (A) The following persons providing medical care or treatment:  
13 Persons licensed to practice the healing arts, dentistry and optometry,  
14 persons engaged in postgraduate training programs approved by the state  
15 board of healing arts, licensed professional or practical nurses and chief  
16 administrative officers of medical care facilities;

17 (B) the following persons licensed by the state to provide mental  
18 health services: Licensed psychologists, licensed masters level  
19 psychologists, licensed clinical psychotherapists, licensed social workers,  
20 licensed marriage and family therapists, licensed clinical marriage and  
21 family therapists, licensed professional counselors, licensed clinical  
22 professional counselors and registered alcohol and drug abuse counselors;

23 (C) teachers, school administrators or other employees of an  
24 educational institution which the child is attending and persons licensed by  
25 the secretary of health and environment to provide child care services or  
26 the employees of persons so licensed at the place where the child care  
27 services are being provided to the child;

28 (D) firefighters, emergency medical services personnel, law  
29 enforcement officers, juvenile intake and assessment workers, court  
30 services officers, community corrections officers, case managers appointed  
31 under K.S.A. 2014 Supp. 23-3508, and amendments thereto, and mediators  
32 appointed under K.S.A. 2014 Supp. 23-3502, and amendments thereto;  
33 and

34 (E) any person employed by or who works as a volunteer for any  
35 organization, whether for profit or not-for-profit, that provides social  
36 services to pregnant teenagers, including, but not limited to, counseling,

1 adoption services and pregnancy education and maintenance.

2 (2) In addition to the reports required under subsection (a)(1), any  
3 person who has reason to suspect that a child may be a child in need of  
4 care may report the matter as provided in subsection (b) and (c).

5 (b) *Form of report.* (1) The report may be made orally and shall be  
6 followed by a written report if requested. Every report shall contain, if  
7 known: The names and addresses of the child and the child's parents or  
8 other persons responsible for the child's care; the location of the child if  
9 not at the child's residence; the child's gender, race and age; the reasons  
10 why the reporter suspects the child may be a child in need of care; if abuse  
11 or neglect or sexual abuse is suspected, the nature and extent of the harm  
12 to the child, including any evidence of previous harm; and any other  
13 information that the reporter believes might be helpful in establishing the  
14 cause of the harm and the identity of the persons responsible for the harm.

15 (2) When reporting a suspicion that a child may be in need of care,  
16 the reporter shall disclose protected health information freely and  
17 cooperate fully with the secretary and law enforcement throughout the  
18 investigation and any subsequent legal process.

19 (c) *To whom made.* (1) Reports made pursuant to this section shall be  
20 made to the secretary, except as follows:

21 ~~(1) When the Kansas department for children and families is not open  
22 for business, reports shall be made to the appropriate law enforcement  
23 agency. On the next day that the department is open for business, the law  
24 enforcement agency shall report to the department any report received and  
25 any investigation initiated pursuant to K.S.A. 2014 Supp. 38-2226, and  
26 amendments thereto. The reports may be made orally or, on request of the  
27 secretary, in writing.~~

28 ~~(2) , except that reports of child abuse or neglect occurring in an  
29 institution operated by the Kansas department for aging and disability  
30 services or the commissioner of juvenile justice secretary of corrections  
31 shall be made to the attorney general. All other reports-~~

32 ~~(2) The law enforcement agency shall report to the Kansas  
33 department for children and families any report received and any  
34 investigation initiated, except that the law enforcement agency shall not  
35 report such information concerning a report or investigation of child  
36 abuse or neglect by persons employed by or of children of persons  
37 employed by the Kansas department for aging and disability services and  
38 or the Kansas department for children and families shall be made to the  
39 appropriate law enforcement agency. The reports may be made orally or,  
40 on request of the secretary for children and families, in writing.~~

41 (d) *Death of child.* Any person who is required by this section to  
42 report a suspicion that a child is in need of care and who knows of  
43 information relating to the death of a child shall immediately notify the

1 coroner as provided by K.S.A. 22a-242, and amendments thereto.

2 (e) *Violations.* (1) Willful and knowing failure to make a report  
3 required by this section is a class B misdemeanor. It is not a defense that  
4 another mandatory reporter made a report.

5 (2) Intentionally preventing or interfering with the making of a report  
6 required by this section is a class B misdemeanor.

7 (3) Any person who willfully and knowingly makes a false report  
8 pursuant to this section or makes a report that such person knows lacks  
9 factual foundation is guilty of a class B misdemeanor.

10 (f) *Immunity from liability.* Anyone who, without malice, participates  
11 in the making of a report to the secretary or a law enforcement agency  
12 relating to a suspicion a child may be a child in need of care or who  
13 participates in any activity or investigation relating to the report or who  
14 participates in any judicial proceeding resulting from the report shall have  
15 immunity from any civil liability that might otherwise be incurred or  
16 imposed.

17 Sec. 2. K.S.A. 2014 Supp. 38-2226 is hereby amended to read as  
18 follows: 38-2226. (a) *Investigation for child abuse or neglect.* The  
19 secretary and law enforcement officers shall have the duty to receive and  
20 investigate reports of child abuse or neglect for the purpose of determining  
21 whether the report is valid and whether action is required to protect a  
22 child. Any person or agency which maintains records relating to the  
23 involved child which are relevant to any investigation conducted by the  
24 secretary or law enforcement agency under this code shall provide the  
25 secretary ~~or~~ and law enforcement agency with the necessary records to  
26 assist in investigations. In order to provide such records, the person or  
27 agency maintaining the records shall receive from the secretary or law  
28 enforcement: (1) A written request for information; and (2) a written notice  
29 that the investigation is being conducted by the secretary or law  
30 enforcement. If the secretary and such officers determine that no action is  
31 necessary to protect the child but that a criminal prosecution should be  
32 considered, such law enforcement officers shall make a report of the case  
33 to the appropriate law enforcement agency.

34 (b) *Joint investigations.* When a report of child abuse or neglect  
35 indicates: (1) That there is serious physical harm to, serious deterioration  
36 of or sexual abuse of the child; and (2) that action may be required to  
37 protect the child, the investigation shall be conducted as a joint effort  
38 between the secretary and the appropriate law enforcement agency or  
39 agencies, with a free exchange of information between them pursuant to  
40 K.S.A. 2014 Supp. 38-2210, and amendments thereto. If a statement of a  
41 suspect is obtained by either agency, a copy of the statement shall be  
42 provided to the other.

43 (c) *Investigation of certain cases.* Suspected child abuse or neglect

1 which occurs in an institution operated by the secretary shall be  
2 investigated by the attorney general. Any other suspected child abuse or  
3 neglect by persons employed by the Kansas department for children and  
4 families shall be investigated by the appropriate law enforcement agency.

5 (d) *Coordination of investigations by county or district attorney.* If a  
6 dispute develops between agencies investigating a reported case of child  
7 abuse or neglect, the appropriate county or district attorney shall take  
8 charge of, direct and coordinate the investigation.

9 (e) *Investigations concerning certain facilities.* Any investigation  
10 involving a facility subject to licensing or regulation by the secretary of  
11 health and environment shall be promptly reported to the state secretary of  
12 health and environment.

13 (f) *Cooperation between agencies.* Law enforcement agencies and the  
14 secretary shall assist each other in taking action which is necessary to  
15 protect a child regardless of which agency conducted the initial  
16 investigation.

17 (g) *Cooperation between school personnel and investigative*  
18 *agencies.* (1) Educational institutions, the secretary and law enforcement  
19 agencies shall cooperate with each other in the investigation of reports of  
20 suspected child abuse or neglect. The secretary and law enforcement  
21 agencies shall have access to a child in a setting designated by school  
22 personnel on the premises of an educational institution. Attendance at an  
23 interview conducted on such premises shall be at the discretion of the  
24 agency conducting the interview, giving consideration to the best interests  
25 of the child. To the extent that safety and practical considerations allow,  
26 law enforcement officers on such premises for the purpose of investigating  
27 a report of suspected child abuse or neglect shall not be in uniform.

28 (2) The secretary or a law enforcement officer may request the  
29 presence of school personnel during an interview if the secretary or officer  
30 determines that the presence of such person might provide comfort to the  
31 child or facilitate the investigation.

32 Sec. 3. K.S.A. 2014 Supp. 39-1431 is hereby amended to read as  
33 follows: 39-1431. (a) Any person who is licensed to practice any branch of  
34 the healing arts, a licensed psychologist, a licensed master level  
35 psychologist, a licensed clinical psychotherapist, the chief administrative  
36 officer of a medical care facility, a teacher, a licensed social worker, a  
37 licensed professional nurse, a licensed practical nurse, a licensed dentist, a  
38 licensed marriage and family therapist, a licensed clinical marriage and  
39 family therapist, licensed professional counselor, licensed clinical  
40 professional counselor, registered alcohol and drug abuse counselor, a law  
41 enforcement officer, a case manager, a rehabilitation counselor, a bank  
42 trust officer or any other officers of financial institutions, a legal  
43 representative, a governmental assistance provider, an owner or operator

1 of a residential care facility, an independent living counselor and the chief  
2 administrative officer of a licensed home health agency, the chief  
3 administrative officer of an adult family home and the chief administrative  
4 officer of a provider of community services and affiliates thereof operated  
5 or funded by the Kansas department for aging and disability services or  
6 licensed under K.S.A. 75-3307b, and amendments thereto, who has  
7 reasonable cause to believe that an adult is being or has been abused,  
8 neglected or exploited or is in need of protective services shall report,  
9 immediately from receipt of the information, such information or cause a  
10 report of such information to be made in any reasonable manner *to law*  
11 *enforcement and the Kansas department for children and families*. An  
12 employee of a domestic violence center shall not be required to report  
13 information or cause a report of information to be made under this  
14 subsection. Other state agencies receiving reports that are to be referred to  
15 the Kansas department for children and families and the appropriate law  
16 enforcement agency, shall submit the report to the department and agency  
17 within six hours, during normal work days, of receiving the information.  
18 Reports shall be made to the Kansas department for children and families  
19 during the normal working week days and hours of operation. ~~Reports~~  
20 ~~shall be made to law enforcement agencies during the time the Kansas~~  
21 ~~department for children and families is not in operation.~~ Law enforcement  
22 shall submit the report and appropriate information to the Kansas  
23 department for children and families on the first working day that the  
24 Kansas department for children and families is in operation after receipt of  
25 such information.

26 (b) The report made pursuant to subsection (a) shall contain the name  
27 and address of the person making the report and of the caretaker caring for  
28 the involved adult, the name and address of the involved adult, information  
29 regarding the nature and extent of the abuse, neglect or exploitation, the  
30 name of the next of kin of the involved adult, if known, and any other  
31 information which the person making the report believes might be helpful  
32 in the investigation of the case and the protection of the involved adult.

33 (c) Any other person, not listed in subsection (a), having reasonable  
34 cause to suspect or believe that an adult is being or has been abused,  
35 neglected or exploited or is in need of protective services may report such  
36 information to the Kansas department for children and families. Reports  
37 shall be made to law enforcement agencies during the time the Kansas  
38 department for children and families is not in operation.

39 (d) A person making a report under subsection (a) shall not be  
40 required to make a report under K.S.A. 39-1401 to 39-1410, inclusive, and  
41 amendments thereto.

42 (e) Any person required to report information or cause a report of  
43 information to be made under subsection (a) who knowingly fails to make

1 such report or cause such report not to be made shall be guilty of a class B  
2 misdemeanor.

3 (f) Notice of the requirements of this act and the department to which  
4 a report is to be made under this act shall be posted in a conspicuous  
5 public place in every adult family home as defined in K.S.A. 39-1501, and  
6 amendments thereto, and every provider of community services and  
7 affiliates thereof operated or funded by the Kansas department for aging  
8 and disability services or other facility licensed under K.S.A. 75-3307b,  
9 and amendments thereto, and other institutions included in subsection (a).

10 Sec. 4. K.S.A. 2014 Supp. 38-2223, 38-2226 and 39-1431 are hereby  
11 repealed.

12 Sec. 5. This act shall take effect and be in force from and after its  
13 publication in the statute book.