

**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.