

**SENATE BILL No. 236**

By Committee on Public Health and Welfare

2-6

1 AN ACT concerning childhood abuse or neglect; authorizing victims of  
2 childhood abuse or neglect to access records related to substantiated  
3 reports or investigations of abuse or neglect; amending K.S.A. 2024  
4 Supp. 38-2212 and repealing the existing section.

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

7 Section 1. K.S.A. 2024 Supp. 38-2212 is hereby amended to read as  
8 follows: 38-2212. (a) *Principle of appropriate access.* Information  
9 contained in confidential agency records concerning a child alleged or  
10 adjudicated to be in need of care may be disclosed as provided in this  
11 section and shall be disclosed as provided in ~~subsection~~ subsections (e)  
12 and (g). Disclosure shall in all cases be guided by the principle of  
13 providing access only to persons or entities with a need for information  
14 that is directly related to achieving the purposes of this code.

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

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

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

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

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

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

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

- 1 (B) a member of the child's family; or
- 2 (C) a person who allegedly abused or neglected the child.
- 3 (5) A person or entity licensed or registered by the secretary of health
- 4 and environment or approved by the secretary for children and families to
- 5 care for, treat or supervise a child in need of care.
- 6 (6) A coroner or medical examiner when such person is determining
- 7 the cause of death of a child.
- 8 (7) The state child death review board established under K.S.A. 22a-
- 9 243, and amendments thereto.
- 10 (8) An attorney for a private party who files a petition pursuant to
- 11 K.S.A. 38-2233(b), and amendments thereto.
- 12 (9) A foster parent, prospective foster parent, permanent custodian,
- 13 prospective permanent custodian, adoptive parent or prospective adoptive
- 14 parent. In order to assist such persons in making an informed decision
- 15 regarding acceptance of a particular child, to help the family anticipate
- 16 problems that may occur during the child's placement, and to help the
- 17 family meet the needs of the child in a constructive manner, the secretary
- 18 shall seek and shall provide the following information to such persons as
- 19 the information becomes available to the secretary:
- 20 (A) Strengths, needs and general behavior of the child;
- 21 (B) circumstances that necessitated placement;
- 22 (C) information about the child's family and the child's relationship to
- 23 the family that may affect the placement;
- 24 (D) important life experiences and relationships that may affect the
- 25 child's feelings, behavior, attitudes or adjustment;
- 26 (E) medical history of the child, including third-party coverage that
- 27 may be available to the child; and
- 28 (F) education history, to include present grade placement, special
- 29 strengths and weaknesses.
- 30 (10) The state protection and advocacy agency as provided by K.S.A.
- 31 65-5603(a)(10) or 74-5515(a)(2)(A) and (B), and amendments thereto.
- 32 (11) Any educational institution to the extent necessary to enable the
- 33 educational institution to provide the safest possible environment for its
- 34 pupils and employees.
- 35 (12) Any educator to the extent necessary to enable the educator to
- 36 protect the personal safety of the educator and the educator's pupils.
- 37 (13) The office of the child advocate pursuant to the child advocate
- 38 act.
- 39 (14) Any other federal, state or local government executive branch
- 40 entity or any agent of such entity, having a need for such information in
- 41 order to carry out such entity's responsibilities under the law to protect
- 42 children from abuse and neglect.
- 43 (d) *Specified access*. The following persons or entities shall have

1 access to information contained in agency records as specified.  
2 Information authorized to be disclosed pursuant to this subsection shall not  
3 contain information that identifies a reporter of a child who is alleged or  
4 adjudicated to be a child in need of care.

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

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

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

29 (A) The individuals involved or their representatives have given  
30 express written consent; or

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

35 (e) *Law enforcement access.* The secretary shall disclose confidential  
36 agency records of a child alleged or adjudicated to be a child in need of  
37 care, as described in K.S.A. 38-2209, and amendments thereto, to the law  
38 enforcement agency investigating the alleged or substantiated report or  
39 investigation of abuse or neglect, regardless of the disposition of such  
40 report or investigation. Such records shall include, but not be limited to,  
41 any information regarding such report or investigation, records of past  
42 reports or investigations concerning such child and such child's siblings  
43 and the perpetrator or alleged perpetrator and the name and contact

1 information of the reporter or persons alleging abuse or neglect and case  
2 managers, investigators or contracting entity employees assigned to or  
3 investigating such report. Such records shall only be used for the purposes  
4 of investigating the alleged or substantiated report or investigation of  
5 abuse or neglect.

6 (f) *Court order.* Notwithstanding the provisions of this section, a  
7 court of competent jurisdiction, after in camera inspection, may order  
8 disclosure of confidential agency records pursuant to a determination that  
9 the disclosure is in the best interests of the child who is the subject of the  
10 reports or that the records are necessary for the proceedings of the court.  
11 The court shall specify the terms of disclosure and impose appropriate  
12 limitations.

13 (g) *Authorized access.* *A person shall have access to information*  
14 *from agency records related to a substantiated report or investigation of*  
15 *abuse or neglect if such person is 18 years of age or older and was the*  
16 *child who is the subject of such substantiated report or investigation.*  
17 *Information authorized to be disclosed pursuant to this subsection shall*  
18 *not contain information that identifies any person who reported the abuse*  
19 *or neglect.*

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

27 (2) Within seven days of receipt of a request in accordance with the  
28 procedures adopted under K.S.A. 45-220, and amendments thereto, the  
29 secretary shall notify any affected individual that an open records request  
30 has been made concerning such records. The secretary or any affected  
31 individual may file a motion requesting the court to prevent disclosure of  
32 such record or report, or any select portion thereof. Notice of the filing of  
33 such motion shall be provided to all parties requesting the records or  
34 reports, and such party or parties shall have a right to hearing, upon  
35 request, prior to the entry of any order on such motion. If the affected  
36 individual does not file such motion within seven days of notification, and  
37 the secretary has not filed a motion, the secretary shall release the reports  
38 or records. If such motion is filed, the court shall consider the effect such  
39 disclosure may have upon an ongoing criminal investigation, a pending  
40 prosecution, or the privacy of the child, if living, or the child's siblings,  
41 parents or guardians, and the public's interest in the disclosure of such  
42 records or reports. The court shall make written findings on the record  
43 justifying the closing of the records and shall provide a copy of the journal

1 entry to the affected parties and the individual requesting disclosure  
2 pursuant to the Kansas open records act, K.S.A. 45-215 et seq., and  
3 amendments thereto.

4 (3) Notwithstanding the provisions of paragraph (2), in the event that  
5 child abuse or neglect results in a child fatality or criminal charges are  
6 filed with a court alleging that a person caused a child fatality, the  
7 secretary shall release the following information in response to an open  
8 records request made pursuant to the Kansas open records act, within  
9 seven business days of receipt of such request, as allowed by applicable  
10 law:

11 (A) Age and sex of the child;

12 (B) date of the fatality;

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

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

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

23 (A) Age and sex of the child;

24 (B) date of the fatality; and

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

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

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

37 Sec. 2. K.S.A. 2024 Supp. 38-2212 is hereby repealed.

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