

HOUSE BILL No. 2629

By Committee on Child Welfare and Foster Care

Requested by Matt Bingesser on behalf of the Office of the Attorney General

1-30

1 AN ACT concerning children and minors; relating to the state child death
2 review board; replacing sudden infant death with sudden unexplained
3 infant death; requiring the secretary for health and environment to
4 provide a death certificate to the state child death review board; listing
5 requirements for notification of a deceased child; increasing the number
6 of members appointed by the state board of healing arts to the state
7 child death review board; allowing for compensation for board
8 members; providing for the disclosure of certain records to certain
9 persons for securing grants; directing that records be kept for 15 years
10 after a case is closed; amending K.S.A. 22a-242, 22a-243 and 22a-244
11 and repealing the existing sections.

12

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

14 Sec. 1. K.S.A. 22a-242 is hereby amended to read as follows: 22a-
15 242. (a) When a child dies, any law enforcement officer, health care
16 provider or other person having knowledge of the death shall immediately
17 notify the coroner of the known facts concerning the time, place, manner
18 and circumstances of the death. If the notice to the coroner identifies any
19 suspicious circumstances or unknown cause, as described in the protocol
20 developed by the state review board under K.S.A. 22a-243, and
21 amendments thereto, the coroner shall immediately: (1) Investigate the
22 death to determine whether the child's death included any such suspicious
23 circumstance or unknown cause; and (2) direct a pathologist to perform an
24 autopsy.

25 (b) If, after investigation and an autopsy, the coroner determines that
26 the death of a child does not include any suspicious circumstances or
27 unknown cause, as described in the protocol developed by the state review
28 board under K.S.A. 22a-243, and amendments thereto, ~~the coroner shall~~
29 ~~complete and sign a nonsuspicious child death form no further action by~~
30 ~~the coroner is required.~~

31 (c) If, after investigation and an autopsy, the coroner determines that
32 the death of a child includes any suspicious circumstance or unknown
33 cause, as described in the protocol developed by the state review board
34 under K.S.A. 22a-243, and amendments thereto, ~~the coroner shall notify,~~
35 ~~within 30 days, the chairperson of the state review board and shall notify,~~

1 within 24 hours, the county or district attorney of the county where the
2 death of the child occurred.

3 (d) The coroner shall attempt to notify any parent or legal guardian of
4 the deceased child prior to the performance of an autopsy pursuant to this
5 section ~~and attempt to notify any such parent or legal guardian of the~~
6 ~~results of the autopsy.~~ *The notification shall include information regarding*
7 *the autopsy and instructions for how a parent or legal guardian may*
8 *obtain a copy of the finding and autopsy results.*

9 (e) A coroner shall not make a determination that the death of a child
10 less than one year of age was caused by sudden *unexplained* infant death
11 syndrome unless an autopsy is performed.

12 (f) The fee for an autopsy performed under this section shall be the
13 usual and reasonable fee and travel allowance authorized under K.S.A.
14 22a-233, and amendments thereto, and shall be paid from the district
15 coroners fund.

16 (g) *The secretary for health and environment shall provide a copy of*
17 *the death certificate to the state child death review board that meets*
18 *requirements developed by the board pursuant to K.S.A. 22a-243, and*
19 *amendments thereto.*

20 Sec. 2. K.S.A. 22a-243 is hereby amended to read as follows: 22a-
21 243. (a) There is hereby established a state child death review board,
22 which shall be composed of:

23 (1) One member appointed by each of the following officers to
24 represent the officer's agency: The attorney general, the director of the
25 Kansas bureau of investigation, the secretary for children and families, the
26 secretary of health and environment and the commissioner of education;

27 (2) ~~three~~*four* members appointed by the state board of healing arts,
28 one of whom shall be a district coroner and ~~two~~ *three* of whom shall be
29 physicians licensed to practice medicine and surgery, one specializing in
30 pathology and ~~the other~~ *two* specializing in pediatrics;

31 (3) one person appointed by the attorney general to represent
32 advocacy groups that focus attention on child abuse awareness and
33 prevention; and

34 (4) one county or district attorney appointed by the Kansas county
35 and district attorneys association.

36 (b) The chairperson of the state review board shall be the member
37 appointed by the attorney general to represent the office of the attorney
38 general.

39 (c) The state child death review board shall be within the office of the
40 attorney general as a part thereof. All budgeting, purchasing and related
41 management functions of the board shall be administered under the
42 direction and supervision of the attorney general. All vouchers for
43 expenditures and all payrolls of the board shall be approved by the

1 chairperson of the board and by the attorney general. The state review
2 board shall establish and maintain an office in Topeka.

3 (d) The state review board shall meet at least annually to review all
4 reports submitted to the board. The chairperson of the state review board
5 may call a special meeting of the board at any time to review any report of
6 a child death.

7 (e) *When informed of a child death, the state review board shall*
8 *review all child deaths of:*

9 (1) *Kansas residents who are less than 18 years of age, regardless of*
10 *where such death occurred; and*

11 (2) *non-Kansas residents who are less than 18 years of age if such*
12 *death occurred in Kansas.*

13 (f) Within the limits of appropriations therefor, the state review board
14 shall appoint an executive director who shall be in the unclassified service
15 of the Kansas civil service act and shall receive an annual salary fixed by
16 the state review board.

17 ~~(g)~~(g) Within the limits of appropriations therefor, the state review
18 board may employ other persons who shall be in the classified service of
19 the Kansas civil service act.

20 ~~(g)~~(h) Members of the state review board ~~shall not~~ may receive
21 compensation, subsistence allowances, mileage and expenses as provided
22 by K.S.A. 75-3223, and amendments thereto, for attending meetings or
23 subcommittee meetings of the board. *Compensation, subsistence*
24 *allowances, mileage and expenses shall be approved by the chairperson of*
25 *the state review board and the attorney general.*

26 ~~(h)~~(i) The state review board shall develop a protocol to be used by
27 the state review board. The protocol shall include written guidelines for
28 coroners to use in identifying any suspicious deaths, procedures to be used
29 by the board in investigating child deaths, methods to ensure coordination
30 and cooperation among all agencies involved in child deaths and
31 procedures for facilitating prosecution of perpetrators when it appears the
32 cause of a child's death was from abuse or neglect. The protocol shall be
33 adopted by the state review board by rules and regulations.

34 ~~(i)~~(j) The state review board shall submit an annual report to the
35 governor and the legislature on or before October 1 of each year,
36 commencing October 1993. Such report shall include the findings of the
37 board regarding reports of child deaths, the board's analysis and the board's
38 recommendations for improving child protection, including
39 recommendations for modifying statutes, rules and regulations, policies
40 and procedures.

41 ~~(j)~~(k) Information acquired by, and records of, the state review board
42 shall be confidential, shall not be disclosed and shall not be subject to
43 subpoena, discovery or introduction into evidence in any civil or criminal

1 proceeding, except that the state review board or the board's designee may
2 disclose such information and records to:

3 (1) Any member of the legislature or a legislative committee that has
4 legislative responsibility of the enabling or appropriating legislation, if
5 such member or committee is carrying out the official functions of such
6 member or committee, and if any such committee recesses into a closed or
7 executive meeting pursuant to K.S.A. 75-4319(a), and amendments
8 thereto, and has taken appropriate steps to preserve its privacy;

9 (2) any person or entity contracting with the state review board, if the
10 board has determined that disclosure of such information and records is
11 essential for completion of the contract, and the board has taken
12 appropriate steps to preserve confidentiality;

13 (3) any person or entity, if the information and records being
14 disclosed are statistics or conclusions of the state review board of the same
15 type included in its annual report pursuant to subsection ~~(i)~~ (j);

16 (4) any law enforcement agency of the state or any political
17 subdivision thereof, if the state review board determines that the
18 information and records being disclosed were not previously available to
19 such law enforcement agency for the investigation of the cause of the
20 child's death; and:

21 (A) The board determines that the cause of the child's death was from
22 abuse or neglect; or

23 (B) the board does not determine that the child's death was from
24 abuse or neglect and has knowledge of a law enforcement investigation
25 based on an official offense report as required in K.S.A. 21-2501a, and
26 amendments thereto, of abuse or neglect involving the death of a child;

27 (5) any county or district attorney, if the state review board
28 determines that the information and records being disclosed were not
29 previously available to such county or district attorney for the prosecution
30 of any crimes related to the cause of the child's death; and:

31 (A) The board determines that the cause of the child's death was from
32 abuse or neglect; or

33 (B) the board does not determine that the child's death was from
34 abuse or neglect and has knowledge of a law enforcement investigation
35 based on an official offense report as required in K.S.A. 21-2501a, and
36 amendments thereto, of abuse or neglect involving the death of a child;

37 (6) (A) any entity established by a city or county for the express
38 purpose of providing a local review of child deaths if the information and
39 records being disclosed are related to a child's death in an instance when:

40 (i) Such death occurred in such city or county; or

41 (ii) such child was a resident of such city or county;

42 (B) the provisions of this paragraph shall expire on July 1, 2026,
43 unless the legislature reviews and reenacts such provisions prior to July 1,

1 2026; and

2 (C) the joint committee on child welfare system oversight shall
 3 review the provisions of this paragraph pursuant to K.S.A. 46-3901, and
 4 amendments thereto;

5 (7) any licensing body as defined by K.S.A. 74-146, and amendments
 6 thereto, if:

7 (A) The information and records being disclosed are related to a
 8 disciplinary complaint against a person licensed by such licensing body;

9 (B) any member of the state review board is under a professional
 10 obligation to make a disciplinary complaint against a person licensed by
 11 such licensing body; or

12 (C) a person licensed by such licensing body may have caused or
 13 contributed to the child's death; ~~and~~

14 (8) a governmental agency or an organization that has a federalwide
 15 assurance (FWA) for the protection of human subjects in good standing
 16 with the United States department of health and human services officer for
 17 human research protections, if:

18 (A) The agency or organization provides documentation that an
 19 institutional review board designated in the FWA has reviewed the
 20 organization's research proposal;

21 (B) personally identifiable information is redacted from the
 22 disclosure;

23 (C) the disclosure is only for the purpose of health or education; and

24 (D) the agency or organization requires all persons granted access to
 25 the disclosed information and records to sign a confidentiality agreement
 26 prior to receipt of the disclosed information and records; *and*

27 *(9) any person or entity, if the information and records being
 28 disclosed are statistics or conclusions of the state review board and
 29 provided for the purpose of procuring and maintaining financial grants.*

30 ~~(l)~~ (l) The state review board may adopt rules and regulations as
 31 necessary to carry out the provisions of K.S.A. 22a-241 through 22a-244,
 32 and amendments thereto.

33 Sec. 3. K.S.A. 22a-244 is hereby amended to read as follows: 22a-
 34 244. (a) Within 72 hours after receipt of notification from a coroner
 35 pursuant to K.S.A. 22a-242, and amendments thereto, the chairperson of
 36 the state review board may activate the board to investigate and make a
 37 written report regarding the death.

38 (b) The state review board shall have access to all law enforcement
 39 investigative information regarding the death; any autopsy records and
 40 coroner's investigative records relating to the death; any medical records
 41 of the child; and any records of the Kansas department for children and
 42 families or any other social service agency ~~which~~ *that* has provided
 43 services to the child or the child's family ~~within three years~~ preceding the

1 child's death.

2 (c) The state review board may apply to the district court for the
3 issuance of, and the district court may issue, a subpoena to compel the
4 production of any books, records or papers relevant to the cause of any
5 death being investigated by the board. Any books, records or papers
6 received by the board pursuant to the subpoena shall be regarded as
7 confidential and privileged information and not subject to disclosure.

8 (d) The state review board's report shall contain the circumstances
9 leading up to the death and cause of death; any social service agency
10 involvement prior to death, including the kinds of services delivered to the
11 dead child or the child's parents, siblings or any other children in the
12 home; the reasons for initial social service agency activity and the reasons
13 for any termination of agency activities if involvement was terminated;
14 whether court intervention had ever been sought and, if so, any action
15 taken by the court; and recommendations for prevention of future death
16 under similar circumstances.

17 ~~(e) Within 15 days of its activation pursuant to this section, the state
18 review board shall complete and transmit a copy of its written report to the
19 county or district attorney of the county in which the child's death
20 occurred. If the death of the child occurred in a different county than
21 where the child resided, a copy of the report shall be sent to the county or
22 district attorney of the county where the child resided or, if the child
23 resided in another state, to the child protective services agency of that
24 state.~~

25 ~~(f)~~ The state review board shall maintain ~~permanent~~ records of all
26 written reports concerning child deaths *for at least 15 years after the date
27 a case is closed.*

28 ~~(g)~~*(f)* The state review board may disclose its conclusions regarding a
29 report of a child death but shall not disclose any information received by
30 the board ~~which~~ *that* is not subject to public disclosure by the agency that
31 provided the information to the board.

32 ~~(h)~~*(g)* Information, documents and records otherwise available from
33 other sources are not immune from discovery or use in a civil or criminal
34 action solely because they were presented during proceedings of the state
35 review board. A person who presented information before the board or
36 who is a member of the board shall not be prevented from testifying about
37 matters within the person's knowledge.

38 Sec. 4. K.S.A. 22a-242, 22a-243 and 22a-244 are hereby repealed.

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