

**HOUSE BILL No. 2751**

By Committee on Federal and State Affairs

2-15

1 AN ACT establishing the office of the child advocate for children's  
2 protection and services within the Kansas department of administration;  
3 prescribing certain powers, duties and functions; amending K.S.A.  
4 2017 Supp. 38-2212, 38-2309 and 38-2310 and repealing the existing  
5 sections.

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

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

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

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

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

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

32 (c) For the fiscal year ending June 30, 2019, and for each fiscal year  
33 thereafter, the secretary of administration shall include the budget estimate  
34 of the office, as prepared and approved by the child advocate, along with  
35 the budget estimate prepared and submitted to the division of the budget  
36 for the department of administration under K.S.A. 75-3717, and

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

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

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

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

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

19 (b) The office shall have the authority:

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

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

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

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

37 (5) to file amicus curiae briefs on behalf of the interests of the parent  
38 or child, or to file such pleadings necessary to intervene on behalf of the  
39 child at the appropriate judicial level using the resources of the office of  
40 the attorney general;

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

43 (7) to take whatever steps are appropriate to see that individuals are

1 made aware of the services of the office, its purpose and how it can be  
2 contacted;

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

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

13 (10) to mediate disputes between alleged victims of sexual  
14 misconduct and school districts or charter schools as provided in section 4,  
15 and amendments thereto.

16 (c) (1) For any information obtained from a state agency or entity  
17 under sections 1 through 9, and amendments thereto, the office shall be  
18 subject to the same disclosure restrictions and confidentiality requirements  
19 that apply to the state agency or entity providing such information to the  
20 office. For information obtained directly by the office under sections 1  
21 through 9, and amendments thereto, the office shall be subject to the same  
22 disclosure restrictions and confidentiality requirements that apply to the  
23 Kansas department for children and families regarding information  
24 obtained during a child abuse and neglect investigation resulting in an  
25 unsubstantiated report.

26 (2) The provisions of this subsection providing for confidentiality of  
27 records shall expire on July 1, 2023, unless the legislature reenacts such  
28 provisions. The legislature shall review this subsection pursuant to K.S.A.  
29 45-229, and amendments thereto, prior to July 1, 2023.

30 New Sec. 4. (a) The office of the child advocate for children's  
31 protection and services shall be authorized to coordinate mediation efforts  
32 between school districts or charter schools and students when requested by  
33 both parties when allegations of child abuse arise in a school setting. The  
34 office shall maintain a list of individuals who are qualified mediators. The  
35 child advocate shall be available as one of the mediators on the list from  
36 which parents can choose.

37 (b) Mediation procedures shall meet the following requirements:

38 (1) The mediation process shall not be used to deny or delay any  
39 other complaint process available to the parties; and

40 (2) the mediation process shall be conducted by a qualified and  
41 impartial mediator trained in effective mediation techniques who is not  
42 affiliated with schools or school professional associations, who is not a  
43 mandated reporter of child abuse under state law or rules and regulations

1 and who is available as a public service.

2 (c) No student, parent of a student, school employee, charter school  
3 or school district shall be required to participate in mediation under this  
4 section. If the school district, charter school, student or student's parent  
5 does not wish to enter into mediation, then mediation shall not occur.

6 (d) Each session in the mediation process shall be scheduled in a  
7 timely manner and be held in a location that is convenient to the parties in  
8 dispute.

9 (e) (1) Discussions that occur during the mediation process shall be  
10 confidential and may not be used as evidence in any subsequent  
11 administrative proceeding, administrative hearing, nor in any civil or  
12 criminal proceeding of any state or federal court.

13 (2) The provisions of this subsection providing for confidentiality of  
14 records shall expire on July 1, 2023, unless the legislature reenacts such  
15 provisions. The legislature shall review this subsection pursuant to K.S.A.  
16 45-229, and amendments thereto, prior to July 1, 2023.

17 (f) If the parties resolve a dispute through the mediation process, the  
18 parties shall execute a legally binding agreement that sets forth the  
19 resolution and:

20 (1) States that all discussions that occurred during the mediation  
21 process shall remain confidential and may not be used as evidence in any  
22 subsequent administrative proceeding, administrative hearing or civil  
23 proceeding of any federal or state court; and

24 (2) is signed by a representative of each party who has authority to  
25 bind the party.

26 New Sec. 5. (a) The office of the child advocate for children's  
27 protection and services shall establish and implement procedures for  
28 receiving, processing, responding to and resolving complaints made by or  
29 on behalf of children who are recipients of the services of the Kansas  
30 department for children and families or the Kansas department of  
31 corrections. Such procedures shall address complaints relating to the  
32 actions, inactions or decisions of service providers, including contractors,  
33 subcontractors and any juvenile court, that may adversely affect the health,  
34 safety, welfare or rights of such recipient.

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

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

39 (d) The office may recommend to any state or local agency changes  
40 in the rules and regulations adopted or proposed by such state or local  
41 agency that adversely affect or may adversely affect the health, safety,  
42 welfare or civil or human rights of any recipient. The office shall make  
43 recommendations on changes to any current policies and procedures. The

1 office shall analyze and monitor the development and implementation of  
2 federal, state and local laws, rules and regulations and policies with respect  
3 to services in the state and shall recommend to the Kansas department for  
4 children and families, the Kansas department of corrections, courts, the  
5 Kansas legislature and the governor changes in such laws, rules and  
6 regulations and policies deemed by the office to be appropriate.

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

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

18 New Sec. 6. (a) The office of the child advocate for children's  
19 protection and services shall have the authority to and may conduct an  
20 independent review of any entity within a county that has experienced  
21 three or more reports of abuse or neglect in a calendar year, including, but  
22 not limited to, the Kansas department for children and families, the Kansas  
23 department of corrections or any guardian ad litem. The office shall  
24 establish and implement procedures for reviewing any such entity.

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

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

34 New Sec. 7. (a) The secretary for children and families and the  
35 secretary of corrections shall enter into agreements with the office of the  
36 child advocate for children's protection and services for the provision of  
37 financial assistance to the office by the Kansas department for children and  
38 families and the Kansas department of corrections from available state and  
39 federal funds of the Kansas department for children and families and the  
40 Kansas department of corrections. This financial assistance shall be to  
41 assist the child advocate to provide child advocacy services in accordance  
42 with sections 1 through 9, and amendments thereto.

43 (b) For the fiscal year ending June 30, 2019, and for each fiscal year

1 thereafter, the secretary for children and families and the secretary of  
2 corrections shall include in the budget estimates prepared and submitted to  
3 the division of the budget for the Kansas department for children and  
4 families and the Kansas department of corrections under K.S.A. 75-3717,  
5 and amendments thereto, in addition to other amounts included in such  
6 budget estimates for the Kansas department for children and families and  
7 the Kansas department of corrections, amounts to be provided to the office  
8 during such fiscal year pursuant to this section. The amounts included in  
9 each such budget estimate to be provided to the office shall include  
10 amounts to be appropriated from federal moneys provided to the Kansas  
11 department for children and families and the Kansas department of  
12 corrections. Commencing in the fiscal year ending on June 30, 2020, in no  
13 case shall the aggregate of the amounts included in any such budget  
14 estimates of the Kansas department for children and families and the  
15 Kansas department of corrections that are to be provided to the office be  
16 less than the aggregate of all moneys provided during the fiscal year  
17 ending June 30, 2019, by the Kansas department for children and families  
18 and the Kansas department of corrections for the office from  
19 appropriations to the Kansas department for children and families and the  
20 Kansas department of corrections, including moneys received under the  
21 federal programs for children. The aggregate amounts included in each  
22 such budget estimates of the Kansas department for children and families  
23 and the Kansas department of corrections that are to be provided to the  
24 office shall be adjusted appropriately for increases attributable to inflation  
25 and other applicable factors.

26 New Sec. 8. (a) Any files maintained by the office of the child  
27 advocate for children's protection and services shall be disclosed only at  
28 the discretion of the child advocate, except that the identity of any  
29 complainant or recipient shall not be disclosed by the office unless:

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

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

33 (b) Any statement or communication made by the office relevant to a  
34 complaint being addressed by the office and any complaint or information  
35 made or provided in good faith by any person shall be absolutely  
36 privileged and such person shall be immune from suit.

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

1 examination with the consent of the recipient.

2 (d) (1) The office shall not be required to testify in any court with  
3 respect to matters held to be confidential in this section, except as the court  
4 may deem necessary to enforce the provisions of sections 1 through 9, and  
5 amendments thereto, or when otherwise required by court order.

6 (2) The provisions of this subsection providing for confidentiality of  
7 records shall expire on July 1, 2023, unless the legislature reenacts such  
8 provisions. The legislature shall review this subsection pursuant to K.S.A.  
9 45-229, and amendments thereto, prior to July 1, 2023.

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

18 (b) No reprisal or retaliatory action shall be taken against any  
19 recipient or employee of the Kansas department for children and families,  
20 the Kansas department of corrections or courts for any communication  
21 made or information given to the office. Any person who knowingly or  
22 willfully violates the provisions of this subsection shall be guilty of a class  
23 A nonperson misdemeanor.

24 Sec. 10. K.S.A. 2017 Supp. 38-2212 is hereby amended to read as  
25 follows: 38-2212. (a) *Principle of appropriate access.* Information  
26 contained in confidential agency records concerning a child alleged or  
27 adjudicated to be in need of care may be disclosed as provided in this  
28 section. Disclosure shall in all cases be guided by the principle of  
29 providing access only to persons or entities with a need for information  
30 that is directly related to achieving the purposes of this code.

31 (b) *Free exchange of information.* Pursuant to K.S.A. 2017 Supp. 38-  
32 2210, and amendments thereto, the secretary and juvenile intake and  
33 assessment agencies shall participate in the free exchange of information  
34 concerning a child who is alleged or adjudicated to be in need of care.

35 (c) *Necessary access.* The following persons or entities shall have  
36 access to information from agency records. Access shall be limited to  
37 information reasonably necessary to carry out their lawful responsibilities,  
38 to maintain their personal safety and the personal safety of individuals in  
39 their care, or to educate, diagnose, treat, care for or protect a child alleged  
40 to be in need of care. Information authorized to be disclosed pursuant to  
41 this subsection shall not contain information which identifies a reporter of  
42 a child who is alleged or adjudicated to be a child in need of care.

43 (1) A child named in the report or records, a guardian ad litem

1 appointed for the child and the child's attorney.

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

4 (3) A court-appointed special advocate for a child, a citizen review  
5 board or other advocate which reports to the court.

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

11 (5) A person or entity licensed or registered by the secretary of health  
12 and environment or approved by the secretary of social and rehabilitation  
13 services to care for, treat or supervise a child in need of care.

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

16 (7) The state child death review board established under K.S.A. 22a-  
17 243, and amendments thereto.

18 (8) An attorney for a private party who files a petition pursuant to  
19 ~~subsection (b)~~ of K.S.A. 2017 Supp. 38-2233(b), and amendments thereto.

20 (9) A foster parent, prospective foster parent, permanent custodian,  
21 prospective permanent custodian, adoptive parent or prospective adoptive  
22 parent. In order to assist such persons in making an informed decision  
23 regarding acceptance of a particular child, to help the family anticipate  
24 problems which may occur during the child's placement, and to help the  
25 family meet the needs of the child in a constructive manner, the secretary  
26 shall seek and shall provide the following information to such person's as  
27 the information becomes available to the secretary:

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

29 (B) circumstances which necessitated placement;

30 (C) information about the child's family and the child's relationship to  
31 the family which may affect the placement;

32 (D) important life experiences and relationships which may affect the  
33 child's feelings, behavior, attitudes or adjustment;

34 (E) medical history of the child, including third-party coverage which  
35 may be available to the child; and

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

38 (10) The state protection and advocacy agency as provided by  
39 ~~subsection (a)(10)~~ of K.S.A. 65-5603(a)(10) or ~~subsection (a)(2)(A) and~~  
40 ~~(B)~~ of K.S.A. 74-5515(a)(2)(A) and (B), and amendments thereto.

41 (11) Any educational institution to the extent necessary to enable the  
42 educational institution to provide the safest possible environment for its  
43 pupils and employees.



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

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

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

9 (d) *Specified access.* The following persons or entities shall have  
10 access to information contained in agency records as specified.  
11 Information authorized to be disclosed pursuant to this subsection shall not  
12 contain information which identifies a reporter of a child who is alleged or  
13 adjudicated to be a child in need of care.

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

31 (2) The secretary of social and rehabilitation services may summarize  
32 the outcome of department actions regarding a child alleged to be a child  
33 in need of care to a person having made such report.

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

37 (A) The individuals involved or their representatives have given  
38 express written consent; or

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

1 (e) *Court order.* Notwithstanding the provisions of this section, a  
2 court of competent jurisdiction, after in camera inspection, may order  
3 disclosure of confidential agency records pursuant to a determination that  
4 the disclosure is in the best interests of the child who is the subject of the  
5 reports or that the records are necessary for the proceedings of the court  
6 and otherwise admissible as evidence. The court shall specify the terms of  
7 disclosure and impose appropriate limitations.

8 (f) (1) Notwithstanding any other provision of law to the contrary,  
9 except as provided in paragraph (4), in the event that child abuse or  
10 neglect results in a child fatality or near fatality, reports or records of a  
11 child alleged or adjudicated to be in need of care received by the secretary,  
12 a law enforcement agency or any juvenile intake and assessment worker  
13 shall become a public record and subject to disclosure pursuant to K.S.A.  
14 45-215, and amendments thereto.

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

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

37 (4) Nothing in this subsection shall allow the disclosure of reports,  
38 records or documents concerning the child and such child's biological  
39 parents which were created prior to such child's adoption. Nothing herein  
40 is intended to require that an otherwise privileged communication lose its  
41 privileged character.

42 Sec. 11. K.S.A. 2017 Supp. 38-2309 is hereby amended to read as  
43 follows: 38-2309. (a) *Official file.* The official file of proceedings pursuant

1 to this code shall consist of the complaint, process, service of process,  
 2 orders, writs and journal entries reflecting hearings held, judgments and  
 3 decrees entered by the court. The official file shall be kept separate from  
 4 other records of the court.

5 (b) The official file shall be open for public inspection, unless the  
 6 judge determines that opening the official file for public inspection is not  
 7 in the best interests of a juvenile who is less than 14 years of age.  
 8 Information identifying victims and alleged victims of sex offenses, as  
 9 defined in article 35 of chapter 21 of the Kansas Statutes Annotated, prior  
 10 to their repeal, or article 55 of chapter 21 of the Kansas Statutes  
 11 Annotated, or K.S.A. 2017 Supp. 21-6419 through 21-6422, and  
 12 amendments thereto, or human trafficking or aggravated human  
 13 trafficking, as defined in K.S.A. 21-3446 or 21-3447, prior to their repeal,  
 14 or K.S.A. 2017 Supp. 21-5426, and amendments thereto, shall not be  
 15 disclosed or open to public inspection under any circumstances. Nothing in  
 16 this section shall prohibit the victim or alleged victim of any sex offense  
 17 from voluntarily disclosing such victim's identity. An official file closed  
 18 pursuant to this section and information identifying the victim or alleged  
 19 victim of any sex offense shall be disclosed only to the following:

- 20 (1) A judge of the district court and members of the staff of the court
- 21 designated by the judge;
- 22 (2) parties to the proceedings and their attorneys;
- 23 (3) any individual or any public or private agency or institution: (A)
- 24 Having custody of the juvenile under court order; or (B) providing
- 25 educational, medical or mental health services to the juvenile;
- 26 (4) the juvenile's court appointed special advocate;
- 27 (5) any placement provider or potential placement provider as
- 28 determined by the commissioner or court services officer;
- 29 (6) law enforcement officers or county or district attorneys, or their
- 30 staff, when necessary for the discharge of their official duties;
- 31 (7) the Kansas racing commission, upon written request of the
- 32 commission chairperson, for the purpose provided by K.S.A. 74-8804, and
- 33 amendments thereto, except that information identifying the victim or
- 34 alleged victim of any sex offense shall not be disclosed pursuant to this
- 35 subsection;
- 36 (8) juvenile intake and assessment workers;
- 37 (9) the commissioner;
- 38 (10) *the office of the child advocate for children's protection and*
- 39 *services, pursuant to sections 1 through 9, and amendments thereto;*
- 40 (11) any other person when authorized by a court order, subject to any
- 41 conditions imposed by the order; and
- 42 ~~(11)~~(12) the commission on judicial performance in the discharge of
- 43 the commission's duties pursuant to article 32 of chapter 20 of the Kansas

1 Statutes Annotated, and amendments thereto.

2 (c) *Social file*. Reports and information received by the court, other  
3 than the official file, shall be privileged and open to inspection only by  
4 attorneys for the parties, juvenile intake and assessment workers, court  
5 appointed special advocates, juvenile community corrections officers, the  
6 juvenile's guardian ad litem, if any, or upon order of a judge of the district  
7 court or appellate court. The reports shall not be further disclosed without  
8 approval of the court or by being presented as admissible evidence.

9 (d) *Preservation of records*. The Kansas state historical society shall  
10 be allowed to take possession for preservation in the state archives of any  
11 court records related to proceedings under the Kansas juvenile justice code  
12 or the revised Kansas juvenile justice code whenever such records  
13 otherwise would be destroyed. The Kansas state historical society shall  
14 make available for public inspection any unexpunged docket entry or  
15 official file in its custody concerning any juvenile 14 or more years of age  
16 at the time an offense is alleged to have been committed by the juvenile.  
17 No other such records in the custody of the Kansas state historical society  
18 shall be disclosed directly or indirectly to anyone for 70 years after  
19 creation of the records, except as provided in subsections (b) and (c). A  
20 judge of the district court may allow inspection for research purposes of  
21 any court records in the custody of the Kansas state historical society  
22 related to proceedings under the Kansas juvenile justice code or the  
23 revised Kansas juvenile justice code.

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

28 Sec. 12. K.S.A. 2017 Supp. 38-2310 is hereby amended to read as  
29 follows: 38-2310. (a) All records of law enforcement officers and agencies  
30 and municipal courts concerning an offense committed or alleged to have  
31 been committed by a juvenile under 14 years of age shall be kept readily  
32 distinguishable from criminal and other records and shall not be disclosed  
33 to anyone except:

34 (1) The judge of the district court and members of the staff of the  
35 court designated by the judge;

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

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

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

42 (5) any educational institution, to the extent necessary to enable the  
43 educational institution to provide the safest possible environment for its

- 1 pupils and employees;
- 2 (6) any educator, to the extent necessary to enable the educator to
- 3 protect the personal safety of the educator and the educator's pupils;
- 4 (7) law enforcement officers or county or district attorneys, or their
- 5 staff, when necessary for the discharge of their official duties;
- 6 (8) the central repository, as defined by K.S.A. 22-4701, and
- 7 amendments thereto, for use only as a part of the juvenile offender
- 8 information system established under K.S.A. 2017 Supp. 38-2326, and
- 9 amendments thereto;
- 10 (9) juvenile intake and assessment workers;
- 11 (10) the department of corrections;
- 12 (11) juvenile community corrections officers;
- 13 (12) the interstate compact for juveniles compact administrator for
- 14 the purpose of carrying out the responsibilities related to the interstate
- 15 compact for juveniles;
- 16 (13) *the office of the child advocate for children's protection and*
- 17 *services, pursuant to sections 1 through 9, and amendments thereto.*
- 18 (14) any other person when authorized by a court order, subject to
- 19 any conditions imposed by the order; and
- 20 ~~(14)~~(15) as provided in subsection (c).
- 21 (b) The provisions of this section shall not apply to records
- 22 concerning:
  - 23 (1) A violation, by a person 14 or more years of age, of any provision
  - 24 of chapter 8 of the Kansas Statutes Annotated, and amendments thereto, or
  - 25 of any city ordinance or county resolution which relates to the regulation
  - 26 of traffic on the roads, highways or streets or the operation of self-
  - 27 propelled or nonself-propelled vehicles of any kind;
  - 28 (2) a violation, by a person 16 or more years of age, of any provision
  - 29 of chapter 32 of the Kansas Statutes Annotated, and amendments thereto;
  - 30 or
  - 31 (3) an offense for which the juvenile is prosecuted as an adult.
  - 32 (c) All records of law enforcement officers and agencies and
  - 33 municipal courts concerning an offense committed or alleged to have been
  - 34 committed by a juvenile 14 or more years of age shall be subject to the
  - 35 same disclosure restrictions as the records of adults. Information
  - 36 identifying victims and alleged victims of sex offenses, as defined in
  - 37 article 35 of chapter 21 of the Kansas Statutes Annotated, prior to their
  - 38 repeal, or article 55 of chapter 21 of the Kansas Statutes Annotated, and
  - 39 amendments thereto, K.S.A. 2017 Supp. 21-6419 through 21-6422, and
  - 40 amendments thereto, or human trafficking or aggravated human
  - 41 trafficking, as defined in K.S.A. 21-3446 or 21-3447, prior to their repeal,
  - 42 or K.S.A. 2017 Supp. 21-5426, and amendments thereto, shall not be
  - 43 disclosed or open to public inspection under any circumstances. Nothing in

1 this section shall prohibit the victim or any alleged victim of any sex  
2 offense from voluntarily disclosing such victim's identity.

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

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

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

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

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

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

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

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

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

28 (F) an agency charged with the responsibility of preventing or  
29 treating physical, mental or emotional abuse or neglect or sexual abuse of  
30 children, if the agency requesting the information has standards of  
31 confidentiality as strict or stricter than the requirements of the Kansas code  
32 for care of children or the revised Kansas juvenile justice code, whichever  
33 is applicable;

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

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

38 (I) any individual, or public or private agency authorized by a  
39 properly constituted authority to diagnose, care for, treat or supervise a  
40 juvenile who is the subject of a report or record of child abuse or neglect,  
41 specifically including the following: Physicians, psychiatrists, nurses,  
42 nurse practitioners, psychologists, licensed social workers, child  
43 development specialists, physician assistants, community mental health

1 workers, addiction counselors and licensed or registered child care  
2 providers;

3 (J) a citizen review board pursuant to K.S.A. 2017 Supp. 38-2207,  
4 and amendments thereto;

5 (K) an educational institution to the extent necessary to enable such  
6 institution to provide the safest possible environment for pupils and  
7 employees of the institution;

8 (L) any educator to the extent necessary for the protection of the  
9 educator and pupils;

10 (M) any juvenile intake and assessment worker of another certified  
11 juvenile intake and assessment program; and

12 (N) the interstate compact for juveniles compact administrator for the  
13 purpose of carrying out the responsibilities related to the interstate  
14 compact for juveniles.

15 Sec. 13. K.S.A. 2017 Supp. 38-2212, 38-2309 and 38-2310 are  
16 hereby repealed.

17 Sec. 14. This act shall take effect and be in force from and after its  
18 publication in the statute book.