AN ACT concerning investigations of abuse, neglect or exploitation of certain individuals; relating to instances when reports of abuse, neglect or exploitation are sent to both the Kansas department for children and families and the appropriate law enforcement agency; amending K.S.A. 2018 Supp. 38-2223, 38-2226 and 39-1431 and repealing the existing sections.

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

Section 1. K.S.A. 2018 Supp. 38-2223 is hereby amended to read as follows: 38-2223. (a) Persons making reports. (1) When any of the following persons has reason to suspect that a child has been harmed as a result of physical, mental or emotional abuse or neglect or sexual abuse, the person shall report the matter promptly as provided in subsections (b) and (c);

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

(B) the following persons licensed by the state to provide mental health services: Licensed psychologists, licensed masters level psychologists, licensed clinical psychotherapists, licensed social workers, licensed marriage and family therapists, licensed clinical marriage and family therapists, licensed behavioral analysts, licensed assistant behavioral analysts, licensed professional counselors, licensed clinical professional counselors and registered alcohol and drug abuse counselors;

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

(D) firefighters, emergency medical services personnel, law enforcement officers, juvenile intake and assessment workers, court services officers, community corrections officers, case managers appointed under K.S.A. 2018 Supp. 23-3508, and amendments thereto, and mediators appointed under K.S.A. 2018 Supp. 23-3502, and amendments thereto;
and

(E) any person employed by or who works as a volunteer for any organization, whether for profit or not-for-profit, that provides social services to pregnant teenagers, including, but not limited to, counseling, adoption services and pregnancy education and maintenance.

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

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

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

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

(1)(A) When the Kansas department for children and families is not open for business, reports shall be made to the appropriate law enforcement agency. On the next day that the department is open for business, the law enforcement agency shall relay to the department any report received and any investigation initiated pursuant to K.S.A. 2018 Supp. 38-2226, and amendments thereto. The reports may be made orally or, on request of the secretary, in writing shall be relayed in paper or electronic format, or a combination of both.

(2)(B) Reports of child abuse or neglect occurring in an institution operated by the Kansas department of corrections shall be made to the attorney general or the secretary of corrections. Reports of child abuse or neglect occurring in an institution operated by the Kansas department for aging and disability services shall be made to the appropriate law enforcement agency. All other reports of child abuse or neglect by persons employed by the Kansas department for aging and disability services or the Kansas department for children and families, or of children of persons employed by either department, shall be made to the appropriate law enforcement agency.

(2) When the secretary receives a second or subsequent report from
any person of suspected abuse or neglect concerning the same child, the
secretary shall relay the report and all previous reports of suspected abuse
or neglect concerning the same child to the appropriate law enforcement
agency within six hours, during normal working days, of receiving such
report or reports. Any such report or reports shall be relayed in paper or
electronic format, or a combination of both.

(d) Death of child. Any person who is required by this section to
report a suspicion that a child is in need of care and who knows of
information relating to the death of a child shall immediately notify the
coroner as provided by K.S.A. 22a-242, and amendments thereto.

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

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

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

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

Sec. 2. K.S.A. 2018 Supp. 38-2226 is hereby amended to read as
follows: 38-2226. (a) Investigation for child abuse or neglect. The
secretary and law enforcement officers shall have the duty to receive and
investigate reports of child abuse or neglect for the purpose of determining
whether the report is valid and whether action is required to protect a
child. Any person or agency which maintains records relating to the
involved child which are relevant to any investigation conducted by
the secretary or law enforcement agency under this code shall provide the
secretary of and law enforcement agency with the necessary records to
assist in investigations. In order to provide such records, the person or
agency maintaining the records shall receive from the secretary or law
enforcement: (1) A written request for information; and (2) a written notice
that the investigation is being conducted by the secretary or law
enforcement. If the secretary and such officers determine that no action is
necessary to protect the child but that a criminal prosecution should be
considered, such law enforcement officers shall make a report of the case
to the appropriate law enforcement agency.

(b) Joint investigations. When a report of child abuse or neglect
indicates: (1) That there is serious physical harm to, serious deterioration of or sexual abuse of the child; and (2) that action may be required to protect the child, the investigation shall be conducted as a joint effort between the secretary and the appropriate law enforcement agency or agencies, with a free exchange of information between them pursuant to K.S.A. 2018 Supp. 38-2210, and amendments thereto. The secretary shall relay such report of suspected abuse or neglect and any previous reports of suspected abuse or neglect concerning the same child to the appropriate law enforcement agency or agencies within six hours, during normal working days, of receiving such report or reports. Any such report or reports shall be relayed in paper or electronic format, or a combination of both. If a statement of a suspect is obtained by either agency, a copy of the statement shall be provided to the other.

(c) Investigation of certain cases. Suspected child abuse or neglect which occurs in an institution operated by the Kansas department of corrections shall be investigated by the attorney general or secretary of corrections. Any suspected child abuse or neglect in an institution operated by the Kansas department for aging and disability services, or by persons employed by the Kansas department for aging and disability services or the Kansas department for children and families, or of children of persons employed by either department, shall be investigated by the appropriate law enforcement agency.

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

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

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

(g) Cooperation between school personnel and investigative agencies. (1) Educational institutions, the secretary and law enforcement agencies shall cooperate with each other in the investigation of reports of suspected child abuse or neglect. The secretary and law enforcement agencies shall have access to a child in a setting designated by school personnel on the premises of an educational institution. Attendance at an interview conducted on such premises shall be at the discretion of the agency conducting the interview, giving consideration to the best interests of the child. To the extent that safety and practical considerations allow,
law enforcement officers on such premises for the purpose of investigating
a report of suspected child abuse or neglect shall not be in uniform.
(2) The secretary or a law enforcement officer may request the
presence of school personnel during an interview if the secretary or officer
determines that the presence of such person might provide comfort to the
child or facilitate the investigation.
Sec. 3. K.S.A. 2018 Supp. 39-1431 is hereby amended to read as
follows: 39-1431. (a) (1) Any person who is licensed to practice any
branch of the healing arts, a licensed psychologist, a licensed master level
psychologist, a licensed clinical psychotherapist, the chief administrative
officer of a medical care facility, a teacher, a licensed social worker, a
licensed professional nurse, a licensed practical nurse, a licensed dentist, a
licensed marriage and family therapist, a licensed clinical marriage and
family therapist, licensed professional counselor, licensed clinical
professional counselor, registered alcohol and drug abuse counselor, a law
enforcement officer, an emergency medical services attendant, a case
manager, a rehabilitation counselor, a bank trust officer or any other
officers of financial institutions, a legal representative, a governmental
assistance provider, an owner or operator of a residential care facility, an
independent living counselor and the chief administrative officer of a
licensed home health agency, the chief administrative officer of an adult
family home and the chief administrative officer of a provider of
community services and affiliates thereof operated or funded by the
Kansas department for aging and disability services or licensed under
K.S.A. 2018 Supp. 39-2001 et seq., and amendments thereto, who has
reasonable cause to believe that an adult is being or has been abused,
neglected or exploited or is in need of protective services shall report,
immediately from receipt of the information, such information or cause a
report of such information to be made in any reasonable manner. An
employee of a domestic violence center shall not be required to report
information or cause a report of information to be made under this
subsection.
(2) Other state agencies receiving reports that are to be referred to the
Kansas department for children and families and the appropriate law
enforcement agency, shall submit the report to the department and agency
within six hours, during normal work days, of receiving the information.
(3) Reports shall be made to the Kansas department for children and
families during the normal working week days and hours of operation.
Reports shall be made to law enforcement agencies during the time the
Kansas department for children and families is not in operation. Law
enforcement shall submit the report and appropriate information to the
Kansas department for children and families on the first working day that
the Kansas department for children and families is in operation after
(b) The report made pursuant to subsection (a) shall contain the name and address of the person making the report and of the caretaker caring for the involved adult, the name and address of the involved adult, information regarding the nature and extent of the abuse, neglect or exploitation, the name of the next of kin of the involved adult, if known, and any other information which the person making the report believes might be helpful in the investigation of the case and the protection of the involved adult.

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

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

(e) Any person required to report information or cause a report of information to be made under subsection (a) who knowingly fails to make such report or cause such report not to be made shall be guilty of a class B misdemeanor.

(f) When the secretary receives a second or subsequent report from any person of suspected abuse, neglect or exploitation concerning the same adult in accordance with this section, the secretary shall relay the report and all previous reports of suspected abuse, neglect or exploitation concerning the same adult to the appropriate law enforcement agency within six hours, during normal working days, of receiving such report or reports. Any such report or reports shall be relayed in paper or electronic format, or a combination of both.

(g) Notice of the requirements of this act and the department to which a report is to be made under this act shall be posted in a conspicuous public place in every adult family home as defined in K.S.A. 39-1501, and amendments thereto, and every provider of community services and affiliates thereof or operated or funded by the Kansas department for aging and disability services or other facility licensed under K.S.A. 2018 Supp. 39-2001 et seq., and amendments thereto, and other institutions included in subsection (a).

Sec. 4. K.S.A. 2018 Supp. 38-2223, 38-2226 and 39-1431 are hereby repealed.

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