SENATE BILL No. 37

By Senator Holland

1-22

AN ACT concerning children and minors; relating to reporting of certain
abuse and neglect; duly ordained minister of religion; employee of or
volunteer for a religious organization; amending K.S.A. 2018 Supp. 38-
2223 and repealing the existing section.

WHEREAS, The provisions of K.S.A. 2018 Supp. 38-2223, as
amended by this act, shall be known as Sheldon's law.

Now, therefore:

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 that 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; and

(F) any duly ordained minister of religion and any person employed by or who works as a volunteer for any religious organization. Notwithstanding any law to the contrary, the penitential communication privilege as described in K.S.A. 60-429, and amendments thereto, shall not apply to the reports required under this subsection.

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

(1) 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 report 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.

(2) 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.

(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.

(g) As used in this section:

(1) "Duly ordained minister of religion" shall have the same meaning
as provided in K.S.A. 60-429, and amendments thereto; and

(2) "religious organization" means any organization, church, body of
communicants, or group, gathered in common membership for mutual
support and edification in piety, worship and religious observances, or a
society of individuals united for religious purposes at a definite place and
which religious organization maintains an established place of worship
within this state and has a regular schedule of services or meetings at
least on a weekly basis and has been determined to be organized and
created as a bona fide religious organization.

Sec. 2. K.S.A. 2018 Supp. 38-2223 is hereby repealed.

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