

HOUSE BILL No. 2158

By Committee on Health and Human Services

1-27

1 AN ACT concerning ~~public health~~ **open government; relating to the state**
2 **child death review board; relating to the confidentiality of records;**
3 **exceptions thereto;** relating to the department of health and
4 environment, division of public health; powers, duties and functions of
5 the advisory committee on trauma and the statewide trauma system
6 regional council; continuing in existence the authority to conduct
7 closed session meetings and keep records privileged; amending K.S.A.
8 75-5664 and 75-5665 and **K.S.A. 2020 Supp. 22a-243 and** repealing
9 the existing sections.

10
11 *Be it enacted by the Legislature of the State of Kansas:*

12 **Section 1. K.S.A. 2020 Supp. 22a-243 is hereby amended to read as**
13 **follows: 22a-243. (a) There is hereby established a state child death**
14 **review board, which shall be composed of:**

15 **(1) One member appointed by each of the following officers to**
16 **represent the officer's agency: The attorney general, the director of the**
17 **Kansas bureau of investigation, the secretary for children and families,**
18 **the secretary of health and environment and the commissioner of**
19 **education;**

20 **(2) three members appointed by the state board of healing arts, one**
21 **of whom shall be a district coroner and two of whom shall be physicians**
22 **licensed to practice medicine and surgery, one specializing in pathology**
23 **and the other specializing in pediatrics;**

24 **(3) one person appointed by the attorney general to represent**
25 **advocacy groups which that focus attention on child abuse awareness**
26 **and prevention; and**

27 **(4) one county or district attorney appointed by the Kansas county**
28 **and district attorneys association.**

29 **(b) The chairperson of the state review board shall be the member**
30 **appointed by the attorney general to represent the office of the attorney**
31 **general.**

32 **(c) The state child death review board shall be within the office of**
33 **the attorney general as a part thereof. All budgeting, purchasing and**
34 **related management functions of the board shall be administered under**
35 **the direction and supervision of the attorney general. All vouchers for**
36 **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*
6 *of a child death.*

7 *(e) Within the limits of appropriations therefor, the state review*
8 *board shall appoint an executive director who shall be in the*
9 *unclassified service of the Kansas civil service act and shall receive an*
10 *annual salary fixed by the state review board.*

11 *(f) Within the limits of appropriations therefor, the state review*
12 *board may employ other persons who shall be in the classified service of*
13 *the Kansas civil service act.*

14 *(g) Members of the state review board shall not receive*
15 *compensation, subsistence allowances, mileage and expenses as*
16 *provided by K.S.A. 75-3223, and amendments thereto, for attending*
17 *meetings or subcommittee meetings of the board.*

18 *(h) The state review board shall develop a protocol to be used by the*
19 *state review board. The protocol shall include written guidelines for*
20 *coroners to use in identifying any suspicious deaths, procedures to be*
21 *used by the board in investigating child deaths, methods to ensure*
22 *coordination and cooperation among all agencies involved in child*
23 *deaths and procedures for facilitating prosecution of perpetrators when*
24 *it appears the cause of a child's death was from abuse or neglect. The*
25 *protocol shall be adopted by the state review board by rules and*
26 *regulations.*

27 *(i) The state review board shall submit an annual report to the*
28 *governor and the legislature on or before October 1 of each year,*
29 *commencing October 1993. Such report shall include the findings of the*
30 *board regarding reports of child deaths, the board's analysis and the*
31 *board's recommendations for improving child protection, including*
32 *recommendations for modifying statutes, rules and regulations, policies*
33 *and procedures.*

34 *(j) Information acquired by, and records of, the state review board*
35 *shall be confidential, shall not be disclosed and shall not be subject to*
36 *subpoena, discovery or introduction into evidence in any civil or*
37 *criminal proceeding, except that such information and records may be*
38 *disclosed to any member of the legislature or any legislative committee*
39 *which has legislative responsibility of the enabling or appropriating*
40 *legislation, carrying out such member's or committee's official functions.*
41 *The legislative committee, in accordance with K.S.A. 75-4319, and*
42 *amendments thereto, shall recess for a closed or executive meeting to*
43 *receive and discuss information received by the committee pursuant to this*

1 ~~subsection~~ *the state review board or the board's designee may disclose*
2 *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*
15 *same type included in its annual report pursuant to subsection (i);*

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. 2020 Supp. 21-*
26 *5101a, and amendments thereto, of abuse or neglect involving the death of*
27 *a child;*

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

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

34 (B) *the board does not determine that the child's death was from*
35 *abuse or neglect and has knowledge of a law enforcement investigation*
36 *based on an official offense report as required in K.S.A. 2020 Supp. 21-*
37 *5101a, and amendments thereto, of abuse or neglect involving the death of*
38 *a child*

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

42 (A) *Such death occurred in such city or county; or*

43 (B) *such child was a resident of such city or county;*

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

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

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

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

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

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

17 (B) personally identifiable information is redacted from the
18 disclosure;

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

20 (D) the agency or organization requires all persons granted access to
21 the disclosed information and records to sign a confidentiality agreement
22 prior to receipt of the disclosed information and records.

23 **(k) The state review board may adopt rules and regulations as
24 necessary to carry out the provisions of K.S.A. 22a-241 through 22a-
25 244, and amendments thereto.**

26 ~~Section 1.~~ **Sec. 2.** K.S.A. 75-5664 is hereby amended to read as
27 follows: 75-5664. (a) There is hereby established an advisory committee
28 on trauma. The advisory committee on trauma shall be advisory to the
29 secretary of health and environment and shall be within the division of
30 public health of the department of health and environment as a part
31 thereof.

32 (b) ~~On July 1, 2001, the advisory committee on trauma in existence~~
33 ~~immediately prior to July 1, 2001, is hereby abolished and a new advisory~~
34 ~~committee on trauma is created in accordance with this section. The terms~~
35 ~~of all members of the advisory committee on trauma in existence prior to~~
36 ~~July 1, 2001, are hereby terminated. On and after July 1, 2001, The~~
37 ~~advisory committee on trauma shall be composed of 24 members~~
38 ~~representing both rural and urban areas of the state appointed as follows:~~

39 (1) Two members shall be persons licensed to practice medicine and
40 surgery appointed by the governor. At least 30 days prior to the expiration
41 of terms described in this section, for each member to be appointed under
42 this section, the Kansas medical society shall submit to the governor a list
43 of three names of persons of recognized ability and qualification. The

1 governor shall consider such list of persons in making appointments to the
2 board under this paragraph.

3 (2) One member shall be licensed to practice osteopathic medicine
4 appointed by the governor. At least 30 days prior to the expiration of the
5 term of the member appointed under this section, the Kansas association of
6 osteopathic medicine shall submit to the governor a list of three persons of
7 recognized ability and qualification. The governor shall consider such list
8 of persons in making appointments to the board under this paragraph.

9 (3) Three members shall be representatives of hospitals appointed by
10 the governor. At least 30 days before the expiration of terms described in
11 this section, for each member to be appointed under this section, the
12 Kansas hospital association shall submit to the governor a list of three
13 names of persons of recognized ability and qualification. The governor
14 shall consider such list of persons in making appointments to the board
15 under this paragraph.

16 (4) Two members shall be licensed professional nurses specializing in
17 trauma care or emergency nursing appointed by the governor. At least 30
18 days before the expiration of terms described in this section, for each
19 member to be appointed under this section, the Kansas state nurses
20 association shall submit to the governor a list of three names of persons of
21 recognized ability and qualification. The governor shall consider such list
22 of persons in making appointments to the board under this paragraph.

23 (5) Two members shall be emergency medical service providers as
24 defined in K.S.A. 65-6112, and amendments thereto, who are on the roster
25 of an ambulance service permitted by the board of emergency medical
26 services. At least 30 days prior to the expiration of one of these positions,
27 the Kansas emergency medical services association shall submit to the
28 governor a list of three persons of recognized ability and qualification. The
29 governor shall consider such list of persons in making this appointment to
30 the board. For the other member appointed under this section, at least 30
31 days prior to the expiration of the term of such member, the Kansas
32 emergency medical technician association shall submit a list of three
33 persons of recognized ability and qualification. The governor shall
34 consider such list of persons in making appointments to the board under
35 this paragraph.

36 (6) Two members shall be administrators of ambulance services, one
37 rural and one urban, appointed by the governor. At least 30 days prior to
38 the expiration of the terms of such members, the Kansas emergency
39 medical services association and Kansas emergency medical technician
40 association in consultation shall submit to the governor a list of four
41 persons of recognized ability and qualification. The governor shall
42 consider such list of persons in making this appointment to the board
43 under this paragraph.

1 (7) Six members shall be representatives of regional trauma councils,
2 one per council, appointed by the governor. At least 30 days prior to the
3 expiration of one of these positions, the relevant regional trauma council
4 shall submit to the governor a list of three persons of recognized ability
5 and qualification. The governor shall consider such list of persons in
6 making these appointments to the board.

7 (8) The secretary of health and environment or the secretary's
8 designee of an appropriately qualified person shall be an ex officio
9 representative of the department of health and environment.

10 (9) The chairperson of the emergency medical services board or the
11 chairperson's designee shall be an ex officio member.

12 (10) ~~Four legislators selected as follows shall be members:~~ The
13 chairperson and ranking minority member or their designees of the
14 committee on health and human services of the house of representatives;
15 and the chairperson and ranking minority member or their designees from
16 the committee on public health and welfare of the senate shall be
17 members.

18 (c) All members shall be residents of the state of Kansas. Particular
19 attention shall be given so that rural and urban interests and geography are
20 balanced in representation. Organizations that submit lists of names to be
21 considered for appointment by the governor under this section shall insure
22 that names of people who reside in both rural and urban areas of the state
23 are among those submitted. At least one person from each congressional
24 district shall be among the members. Of the members appointed under
25 ~~subsection~~ *subsections* (b)(1) through (b)(7): Six shall be appointed to
26 initial terms of two years; six shall be appointed to initial terms of three
27 years; and six shall be appointed to initial terms of four years. Thereafter
28 members shall serve terms of four years and until a successor is appointed
29 and qualified. In the case of a vacancy in the membership of the advisory
30 committee, the vacancy shall be filled for the unexpired term in like
31 manner as that provided in subsection (b).

32 (d) The advisory committee shall meet quarterly and at the call of the
33 chairperson or at the request of a majority of the members. At the first
34 meeting of the advisory committee after July 1 each year, the members
35 shall elect a chairperson and vice-chairperson who shall serve for terms of
36 one year. The vice-chairperson shall exercise all of the powers of the
37 chairperson in the absence of the chairperson.

38 (e) The advisory committee shall be advisory to the secretary of
39 health and environment on all matters relating to the implementation and
40 administration of this act.

41 (f) (1) Any meeting of the advisory committee or any part of a
42 meeting of the advisory committee during which a review of incidents of
43 trauma injury or trauma care takes place shall be conducted in closed

1 session. The advisory committee and officers thereof when acting in their
2 official capacity in considering incidents of trauma injury or trauma care
3 shall constitute a peer review committee and peer review officers for all
4 purposes of K.S.A. 65-4915, and amendments thereto.

5 (2) The advisory committee or an officer thereof may advise, report
6 to and discuss activities, information and findings of the committee that
7 relate to incidents of trauma injury or trauma care with the secretary of
8 health and environment as provided in subsections (a) and (e) without
9 waiver of the privilege provided by this subsection and K.S.A. 65-4915,
10 and amendments thereto, and the records and findings of such committee
11 or officer that are privileged under this subsection and K.S.A. 65-4915,
12 and amendments thereto, shall remain privileged as provided by this
13 subsection and K.S.A. 65-4915, and amendments thereto, ~~prior to July 1,~~
14 ~~2021.~~

15 ~~(3) The provisions of this subsection shall expire on July 1, 2021,~~
16 ~~unless the legislature reviews and reenacts this provision prior to July 1,~~
17 ~~2021.~~

18 (g) Members of the advisory committee attending meetings of the
19 advisory committee or attending a subcommittee of the advisory
20 committee or other authorized meeting of the advisory committee shall not
21 be paid compensation but shall be paid amounts provided in K.S.A. 75-
22 3223(e), and amendments thereto.

23 Sec. 3. K.S.A. 75-5665 is hereby amended to read as follows: 75-
24 5665. (a) The secretary of health and environment, after consultation with
25 and consideration of recommendations from the advisory committee, shall:

26 (1) ~~Develop~~ *Adopt* rules and regulations necessary to carry out the
27 provisions of this act, including fixing, charging and collecting fees from
28 trauma facilities to recover all or part of the expenses incurred in the
29 designation of trauma facilities pursuant to ~~subsection (f) paragraph (6);~~

30 (2) develop a statewide trauma system plan including the
31 establishment of regional trauma councils, using the 2001 Kansas EMS-
32 Trauma Systems Plan study as a guide and not more restrictive than state
33 law. The secretary shall ensure that each council consist of at least six
34 members. Members of the councils shall consist of persons chosen for
35 their expertise in and commitment to emergency medical and trauma
36 services. Such members shall be chosen from the region and include
37 prehospital personnel, physicians, nurses and hospital personnel involved
38 with the emergency medical and trauma services and a representative of a
39 county health department. The plan should:

40 (A) Maximize local and regional control over decisions relating to
41 trauma care;

42 (B) minimize bureaucracy;

43 (C) adequately protect the confidentiality of proprietary and personal

- 1 health information;
- 2 (D) promote cost effectiveness;
- 3 (E) encourage participation by groups affected by the system;
- 4 (F) emphasize medical direction and involvement at all levels of the
- 5 system;
- 6 (G) rely on accurate data as the basis for system planning and
- 7 development; and
- 8 (H) facilitate education of health care providers in trauma care;
- 9 (3) plan, develop and administer a trauma registry to collect and
- 10 analyze data on incidence, severity and causes of trauma and other
- 11 pertinent information—~~which~~ *that* may be used to support the secretary's
- 12 decision-making and identify needs for improved trauma care;
- 13 (4) provide all technical assistance to the regional councils as
- 14 necessary to implement the provisions of this act;
- 15 (5) collect data elements for the trauma registry that are consistent
- 16 with the recommendations of the American college of surgeons committee
- 17 on trauma and centers for disease control;
- 18 (6) designate trauma facilities by level of trauma care capabilities
- 19 after considering the American college of surgeons committee on trauma
- 20 standards and other states' standards except that trauma level designations
- 21 shall not be based on criteria that place practice limitations on registered
- 22 nurse anesthetists—~~which are~~ not required by state law;
- 23 (7) develop a phased-in implementation schedule for each component
- 24 of the trauma system, including the trauma registry, ~~which~~ *that* considers
- 25 the additional burden placed on the emergency medical and trauma
- 26 providers;
- 27 (8) develop standard reports to be utilized by the regional trauma
- 28 councils and those who report data to the registry in performing their
- 29 functions;
- 30 (9) assess the fiscal impact on all components of the trauma system,
- 31 and thereafter recommend other funding sources for the trauma system and
- 32 trauma registry;
- 33 (10) prepare and submit an annual budget in accordance with the
- 34 provisions of this act. Such budget shall include costs for the provision of
- 35 technical assistance to the regional trauma councils and the cost of
- 36 developing and maintaining the trauma registry and analyzing and
- 37 reporting on the data collected; and
- 38 (11) enter into contracts as deemed necessary to carry out the duties
- 39 and functions of the secretary under this act.
- 40 (b) (1) Any meeting of a regional trauma council or any part of a
- 41 meeting of such a council during which a review of incidents of trauma
- 42 injury or trauma care takes place shall be conducted in closed session. A
- 43 regional trauma council and the officers thereof when acting in their

1 official capacity in considering incidents of trauma injury or trauma care
2 shall constitute a peer review committee and peer review officers for all
3 purposes of K.S.A. 65-4915, and amendments thereto.

4 (2) A regional trauma council or an officer thereof may advise, report
5 to and discuss activities, information and findings of the council—~~which~~
6 *that* relate to incidents of trauma injury or trauma care with the secretary
7 of health and environment and make reports as provided in this section
8 without waiver of the privilege provided by this subsection and K.S.A. 65-
9 4915, and amendments thereto, and the records and findings of such
10 council or officer—~~which~~ *that* are privileged under this subsection and
11 K.S.A. 65-4915, and amendments thereto, shall remain privileged as
12 provided by this subsection and K.S.A. 65-4915, and amendments thereto.

13 ~~(3) The provisions of this subsection shall expire on July 1, 2021,~~
14 ~~unless the legislature reviews and reenacts this provision prior to July 1,~~
15 ~~2021.~~

16 Sec. ~~3.~~ 4. K.S.A. 75-5664 and 75-5665 *and K.S.A. 2020 Supp. 22a-*
17 *243* are hereby repealed.

18 Sec. ~~4.~~ 5. This act shall take effect and be in force from and after its
19 publication in the statute book.