

## SENATE BILL No. 159

By Committee on Judiciary

2-8

---

1 AN ACT concerning social welfare; relating to reporting of abuse, neglect  
2 or exploitation of certain persons; amending K.S.A. 2012 Supp. 38-  
3 2223 and 39-1431 and repealing the existing sections.

4  
5 *Be it enacted by the Legislature of the State of Kansas:*

6 Section 1. K.S.A. 2012 Supp. 38-2223 is hereby amended to read as  
7 follows: 38-2223. (a) *Persons making reports.* (1) When any of the  
8 following persons has reason to suspect that a child has been harmed as a  
9 result of physical, mental or emotional abuse or neglect or sexual abuse,  
10 the person shall report the matter promptly as provided in subsections (b)  
11 and (c);

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

17 (B) the following persons licensed by the state to provide mental  
18 health services: Licensed psychologists, licensed masters level  
19 psychologists, licensed clinical psychotherapists, licensed social workers,  
20 licensed marriage and family therapists, licensed clinical marriage and  
21 family therapists, licensed professional counselors, licensed clinical  
22 professional counselors and registered alcohol and drug abuse counselors;

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

28 (D) firefighters, emergency medical services personnel, law  
29 enforcement officers, juvenile intake and assessment workers, court  
30 services officers, community corrections officers, case managers appointed  
31 under K.S.A. 2012 Supp. 23-3508, and amendments thereto, and mediators  
32 appointed under K.S.A. 2012 Supp. 23-3502, and amendments thereto;  
33 and

34 (E) any person employed by or who works as a volunteer for any  
35 organization, whether for profit or not-for-profit, that provides social  
36 services to pregnant teenagers, including, but not limited to, counseling,

1 adoption services and pregnancy education and maintenance.

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

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

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

19 (c) *To whom made.* (1) ~~Except as provided by subsection (c)(2),~~  
20 reports made pursuant to this section shall be made to the secretary, ~~except~~  
21 ~~as follows:~~

22 ~~(1) When the department of social and rehabilitation services is not~~  
23 ~~open for business, reports shall be made to the appropriate law~~  
24 ~~enforcement agency. On the next day that the department is open for~~  
25 ~~business, the law enforcement agency shall report to the department any~~  
26 ~~report received and any investigation initiated pursuant to K.S.A. 2012-~~  
27 ~~Supp. 38-2226, and amendments thereto. the Kansas department for~~  
28 ~~children and families and the appropriate law enforcement agency. When~~  
29 ~~the Kansas department for children and families is not open for business,~~  
30 ~~a report shall be made to the Kansas department for children and families~~  
31 ~~on the next day that the department is open for business. The reports may~~  
32 ~~be made orally or, on request of the secretary, in writing.~~

33 (2) Reports of child abuse or neglect occurring in an institution  
34 operated by the secretary of social and rehabilitation services or the  
35 commissioner of juvenile justice shall be made to the attorney general. All  
36 other reports of child abuse or neglect by persons employed by or of  
37 children of persons employed by the department of social and  
38 rehabilitation services shall be made to the appropriate law enforcement  
39 agency.

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

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

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

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

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

16 Sec. 2. K.S.A. 2012 Supp. 39-1431 is hereby amended to read as  
17 follows: 39-1431. (a) Any person who is licensed to practice any branch of  
18 the healing arts, a licensed psychologist, a licensed master level  
19 psychologist, a licensed clinical psychotherapist, the chief administrative  
20 officer of a medical care facility, a teacher, a licensed social worker, a  
21 licensed professional nurse, a licensed practical nurse, a licensed dentist, a  
22 licensed marriage and family therapist, a licensed clinical marriage and  
23 family therapist, licensed professional counselor, licensed clinical  
24 professional counselor, registered alcohol and drug abuse counselor, a law  
25 enforcement officer, a case manager, a rehabilitation counselor, a bank  
26 trust officer or any other officers of financial institutions, a legal  
27 representative, a governmental assistance provider, an owner or operator of  
28 a residential care facility, an independent living counselor and the chief  
29 administrative officer of a licensed home health agency, the chief  
30 administrative officer of an adult family home and the chief administrative  
31 officer of a provider of community services and affiliates thereof operated  
32 or funded by the department of social and rehabilitation services or  
33 licensed under K.S.A. 75-3307b, and amendments thereto, who has  
34 reasonable cause to believe that an adult is being or has been abused,  
35 neglected or exploited or is in need of protective services shall report,  
36 immediately from receipt of the information, such information or cause a  
37 report of such information to be made in any reasonable manner. An  
38 employee of a domestic violence center shall not be required to report  
39 information or cause a report of information to be made under this  
40 subsection. Other state agencies receiving reports that are to be referred to  
41 the department of social and rehabilitation services and the appropriate law  
42 enforcement agency, shall submit the report to the department and *law*  
43 *enforcement* agency within six hours, during normal work days, of

1 receiving the information. Reports shall be made to the ~~department of~~  
2 ~~social and rehabilitation services during the normal working week days~~  
3 ~~and hours of operation. Reports shall be made to law enforcement agencies~~  
4 ~~during the time social and rehabilitation services are not in operation. Law~~  
5 ~~enforcement shall submit the report and appropriate information to the~~  
6 ~~department of social and rehabilitation services on the first working day~~  
7 ~~that social and rehabilitation services is in operation after receipt of such~~  
8 ~~information. Kansas department for children and families and the~~  
9 ~~appropriate law enforcement agency. When the Kansas department for~~  
10 ~~children and families is not open for business, a report shall be made to~~  
11 ~~the Kansas department for children and families on the next day the~~  
12 ~~department is open for business.~~

13 (b) The report made pursuant to subsection (a) shall contain the name  
14 and address of the person making the report and of the caretaker caring for  
15 the involved adult, the name and address of the involved adult, information  
16 regarding the nature and extent of the abuse, neglect or exploitation, the  
17 name of the next of kin of the involved adult, if known, and any other  
18 information which the person making the report believes might be helpful  
19 in the investigation of the case and the protection of the involved adult.

20 (c) Any other person, not listed in subsection (a), having reasonable  
21 cause to suspect or believe that an adult is being or has been abused,  
22 neglected or exploited or is in need of protective services may report such  
23 information to the ~~department of social and rehabilitation services. Reports~~  
24 ~~shall be made to law enforcement agencies during the time social and~~  
25 ~~rehabilitation services are not in operation. Kansas department for~~  
26 ~~children and families or the appropriate law enforcement agency.~~

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

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

34 (f) Notice of the requirements of this act and the department to which  
35 a report is to be made under this act shall be posted in a conspicuous  
36 public place in every adult family home as defined in K.S.A. 39-1501, and  
37 amendments thereto and every provider of community services and  
38 affiliates thereof operated or funded by the department of social and  
39 rehabilitation services or other facility licensed under K.S.A. 75-3307b,  
40 and amendments thereto and other institutions included in subsection (a).

41 Sec. 3. K.S.A. 2012 Supp. 38-2223 and 39-1431 are hereby repealed.

42 Sec. 4. This act shall take effect and be in force from and after its  
43 publication in the statute book.