AN ACT concerning children and minors; relating to preliminary inquiries to determine whether a child is in need of care; investigations of suspected abuse or neglect; amending K.S.A. 2017 Supp. 38-2223, 38-2226 and 38-2230 and repealing the existing sections.

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

Section 1. K.S.A. 2017 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. 2017 Supp. 23-3508, and amendments thereto, and mediators appointed under K.S.A. 2017 Supp. 23-3502, and amendments thereto;

(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:
(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 report to the department any
report received and any investigation initiated pursuant to K.S.A. 2017
Supp. 38-2226, and amendments thereto. The reports may be made orally
or, on request of the secretary, in writing.
(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 Kansas department for children and families receives a
report required under subsection (a)(1), or two or more reports from any
person of suspected abuse or neglect concerning the same child, the report
or reports shall be promptly relayed by the department to the appropriate
law enforcement agency. Any such relayed reports may be made orally or, on request of the appropriate law enforcement agency, in writing. Any investigation of a report of suspected abuse or neglect shall be made in accordance with the provisions of K.S.A. 2017 Supp. 38-2226(a), and amendment thereto.

(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. 2017 Supp. 38-2226 is hereby amended to read as follows: 38-2226. (a) Investigation for child abuse or neglect. (1) 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—or 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) A written request for information; and—(2) (B) 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.

(2) Any investigation of a report of suspected child abuse or neglect made by the secretary under article 22 of chapter 38 of the Kansas
Statutes Annotated, and amendments thereto, shall be in accordance with
the rules and regulations adopted by the secretary in order to determine
the circumstances surrounding the suspected abuse or neglect and the
cause thereof. An investigation made by any person required to investigate
reports of child abuse or neglect under article 22 of chapter 38 of the
Kansas Statutes Annotated, and amendments thereto, shall include
personal contact with the child named in the report and, if applicable, any
other children in the same household. Any person required to investigate
reports of child abuse or neglect may question the subjects of those reports
with or without the consent of the parent or other person responsible for
the child's welfare. The interviewing of the child or children, if they are of
the mental capacity to be interviewed, shall take place in the absence of
the person or persons responsible for the suspected abuse or neglect. In
the event that any person required to investigate child abuse or neglect is
denied reasonable access to a child by the parents or other persons, and
that person required to investigate deems that the best interests of the child
so require, the person investigating may request the intervention of a local
law enforcement agency or seek an appropriate court order to examine
and interview the child.

(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. 2017 Supp. 38-2210, and amendments thereto. 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. 2017 Supp. 38-2230 is hereby amended to read as
follows: 38-2230. (a) Whenever any person furnishes information to the
secretary that a child appears to be a child in need of care, the department
shall make a preliminary inquiry to determine whether the interests of the
child require further action be taken.

(b) Whenever practicable, the inquiry shall include a preliminary
investigation of the circumstances which were the subject of the
information, including the home and environmental situation and the
previous history of the child.

(c) Preliminary investigations made in response to a report of
suspected abuse or neglect shall be made in accordance with the
provisions of K.S.A. 2017 Supp. 38-2226(a), and amendments thereto.

(d) If reasonable grounds to believe abuse or neglect exist, immediate
steps shall be taken to protect the health and welfare of the abused or
neglected child as well as that of any other child under the same care who
may be harmed by abuse or neglect. After the inquiry, if the secretary
determines it is not otherwise possible to provide those services necessary
to protect the interests of the child, the secretary shall recommend to the
county or district attorney that a petition be filed.

Sec. 4. K.S.A. 2017 Supp. 38-2223, 38-2226 and 38-2230 are hereby
repealed.

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