

SENATE BILL No. 317

By Committee on Federal and State Affairs

3-16

1 AN ACT concerning childhood sexual abuse; permitting a prosecution for
2 childhood sexual abuse to be commenced at any time; providing
3 exceptions in the Kansas tort claims act for claims arising from
4 childhood sexual abuse; extending the time to file civil actions for
5 recovery of damages caused by childhood sexual abuse; amending
6 K.S.A. 12-105b, 75-6104 and 75-6105 and K.S.A. 2022 Supp. 21-5107
7 and 60-523 and repealing the existing sections.
8

9 WHEREAS, The amendments made to the provisions of K.S.A. 12-
10 105b, 75-6104 and 75-6105 and K.S.A. 2022 Supp. 21-5107 and 60-523
11 by this act shall be known as the protecting children everywhere act.

12 Now, therefore:

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

14 Section 1. K.S.A. 12-105b is hereby amended to read as follows: 12-
15 105b. (a) All claims against a municipality must be presented in writing
16 with a full account of the items, and no claim shall be allowed except in
17 accordance with the provisions of this section. A claim may be the usual
18 statement of account of the vendor or party rendering a service or other
19 written statement showing the required information.

20 (b) (1) Claims for salaries or wages of officers or employees need not
21 be signed by the officer or employee if a payroll claim is certified by the
22 administrative head of a department or group of officers or employees or
23 an authorized representative that the salaries or wages stated therein were
24 contracted or incurred for the municipality under authority of law, that the
25 amounts claimed are correct, due and unpaid and that the amounts are due
26 as salaries and wages for services performed by the person named.

27 (2) Nothing in this subsection shall be construed as prohibiting the
28 payment of employment incentive or retention bonuses authorized by
29 K.S.A. 72-2244, and amendments thereto.

30 (c) No costs shall be recovered against a municipality or against an
31 employee of a municipality in any action brought against the municipality
32 or an employee of a municipality for any claims allowed in part unless the
33 recovery shall be for a greater sum than the amount allowed, with the
34 interest due. Subject to the terms of applicable insurance contracts,
35 judgments and settlements obtained for claims recoverable pursuant to the
36 Kansas tort claims act shall be presented for payment in accordance with

1 this section or in such manner as the governing body may designate.

2 (d) (1) *Except as provided in paragraph (2), any person having a*
3 *claim against a municipality or against an employee of a municipality*
4 *which could give rise to an action brought under the Kansas tort claims act*
5 *shall file a written notice as provided in this subsection before*
6 *commencing such action. The notice shall be filed with the clerk or*
7 *governing body of the municipality and shall contain the following: (1)(A)*
8 *The name and address of the claimant and the name and address of the*
9 *claimant's attorney, if any; (2)(B) a concise statement of the factual basis*
10 *of the claim, including the date, time, place and circumstances of the act,*
11 *omission or event complained of; (3)(C) the name and address of any*
12 *public officer or employee involved, if known; (4)(D) a concise statement*
13 *of the nature and the extent of the injury claimed to have been suffered;*
14 *and (5)(E) a statement of the amount of monetary damages that is being*
15 *requested. In the filing of a notice of claim, substantial compliance with*
16 *the provisions and requirements of this subsection shall constitute valid*
17 *filing of a claim. The contents of such notice shall not be admissible in any*
18 *subsequent action arising out of the claim. Once notice of the claim is*
19 *filed, no action shall be commenced until after the claimant has received*
20 *notice from the municipality that it has denied the claim or until after 120*
21 *days has passed following the filing of the notice of claim, whichever*
22 *occurs first. A claim is deemed denied if the municipality fails to approve*
23 *the claim in its entirety within 120 days unless the interested parties have*
24 *reached a settlement before the expiration of that period. No person may*
25 *initiate an action against a municipality or against an employee of a*
26 *municipality unless the claim has been denied in whole or part. Any action*
27 *brought pursuant to the Kansas tort claims act shall be commenced within*
28 *the time period provided for in the code of civil procedure or it shall be*
29 *forever barred, except that, a claimant shall have no less than 90 days from*
30 *the date the claim is denied or deemed denied in which to commence an*
31 *action.*

32 (2) *This subsection shall not apply to any claim for recovery of*
33 *damages against a governmental entity arising from childhood sexual*
34 *abuse as defined in K.S.A. 60-523, and amendments thereto.*

35 (e) *Claims against a municipality—~~which~~ that provide for a discount*
36 *for early payment or for the assessment of a penalty for late payment may*
37 *be authorized to be paid in advance of approval thereof by the governing*
38 *body in accordance with the provisions of this subsection. The governing*
39 *body may designate and authorize one or more of its officers or employees*
40 *to pay any such claim made against the municipality in advance of its*
41 *presentation to and approval by the governing body if payment of the*
42 *amount of such claim is required before the next scheduled regular*
43 *meeting of the governing body in order for the municipality to benefit*

1 from the discount provided for early payment or to avoid assessment of the
2 penalty for late payment. Any officer or employee authorized to pay claims
3 under this subsection shall keep an accurate record of all moneys paid and
4 the purpose for which expended, and shall submit the record to the
5 governing body at the next meeting thereof. Payments of claims by an
6 officer or employee of the municipality under authority of this subsection
7 are valid to the same extent as if the claims had been approved and ordered
8 to be paid by the governing body.

9 (f) When an employee is required to travel on behalf of a
10 municipality, the employee shall be entitled, upon complying with the
11 provisions of the municipality's policies and regulations on employee
12 travel, to timely payment of subsistence allowances and reimbursement for
13 transportation and other related travel expenses incurred by the employee
14 while on an approved travel status. When reimbursement through the
15 regular claims approval process of the municipality will require more than
16 15 days from the date the reimbursement claim is filed, the claim may be
17 authorized to be paid in advance of approval thereof by the governing
18 body in accordance with the provisions of this subsection. The governing
19 body may designate and authorize one or more of its officers or employees
20 to pay any such claim made against the municipality in advance of its
21 presentation to and approval by the governing body if payment of the
22 amount of such claim is required before the next scheduled regular
23 meeting of the governing body. Any officer or employee authorized to pay
24 claims under this subsection shall keep an accurate record of all moneys
25 paid and the purpose for which expended, and shall submit the record to
26 the governing body at the next meeting thereof. Payments of claims by an
27 officer or employee of the municipality under authority of this subsection
28 are valid to the same extent as if the claims had been approved and ordered
29 to be paid by the governing body.

30 (g) Claims submitted by members of a municipality's self-insured
31 health plan may be authorized to be paid in advance of approval thereof by
32 the governing body. Such claims shall be submitted to the administrative
33 officer of such insurance plan.

34 (h) Claims against a school district for the purchase of food or
35 gasoline while students are on a co-curricular or extra-curricular activity
36 outside of the school boundaries may be paid in advance of approval
37 thereof by the governing body in accordance with the provisions of this
38 subsection. The governing body may designate and authorize one or more
39 of its officers or employees to pay any such claim made against the school
40 district in advance of its presentation to and approval by the governing
41 body.

42 (i) Except as otherwise provided, before any claim is presented to the
43 governing body or before any claim is paid by any officer or employee of

1 the municipality under subsection (e) or (f), it shall be audited by the clerk,
2 secretary, manager, superintendent, finance committee or finance
3 department or other officer or officers charged by law to approve claims
4 affecting the area of government concerned in the claim, and thereby
5 approved in whole or in part as correct, due and unpaid.

6 Sec. 2. K.S.A. 2022 Supp. 21-5107 is hereby amended to read as
7 follows: 21-5107. (a) *(1) A prosecution for any of the following crimes*
8 *may be commenced at any time:*

9 *(A) Rape, as defined in K.S.A. 21-3502, prior to its repeal, or K.S.A.*
10 *2022 Supp. 21-5503, and amendments thereto;*

11 *(B) aggravated criminal sodomy, as defined in K.S.A. 21-3506, prior*
12 *to its repeal, or K.S.A. 2022 Supp. 21-5504(b), and amendments thereto;*

13 *(C) murder, as described in K.S.A. 21-3401, 21-3402 or 21-3439,*
14 *prior to their repeal, or K.S.A. 2022 Supp. 21-5401, 21-5402 or 21-5403,*
15 *and amendments thereto;*

16 *(D) terrorism as defined in K.S.A. 21-3449, prior to its repeal, or*
17 *K.S.A. 2022 Supp. 21-5421, and amendments thereto; or*

18 *(E) illegal use of weapons of mass destruction ~~may be commenced at~~*
19 *any time as defined in K.S.A. 21-3450, prior to its repeal, or K.S.A. 2022*
20 *Supp. 21-5422, and amendments thereto.*

21 *(2) A prosecution for childhood sexual abuse may be commenced at*
22 *any time. As used in this paragraph, "childhood sexual abuse" means any*
23 *of the following crimes when the victim is under 18 years of age:*

24 *(A) Indecent liberties with a child as defined in K.S.A. 21-3503, prior*
25 *to its repeal, or K.S.A. 2022 Supp. 21-5506(a), and amendments thereto;*

26 *(B) aggravated indecent liberties with a child as defined in K.S.A. 21-*
27 *3504, prior to its repeal, or K.S.A. 2022 Supp. 21-5506(b), and*
28 *amendments thereto;*

29 *(C) criminal sodomy as defined in K.S.A. 21-3505(a)(2) and (a)(3),*
30 *prior to its repeal, or K.S.A. 2022 Supp. 21-5504(a)(3) and (a)(4), and*
31 *amendments thereto;*

32 *(D) enticement of a child as defined in K.S.A. 21-3509, prior to its*
33 *repeal;*

34 *(E) indecent solicitation of a child as defined in K.S.A. 21-3510,*
35 *prior to its repeal, or K.S.A. 2022 Supp. 21-5508(a), and amendments*
36 *thereto;*

37 *(F) aggravated indecent solicitation of a child as defined in K.S.A.*
38 *21-3511, prior to its repeal, or K.S.A. 2022 Supp. 21-5508(b), and*
39 *amendments thereto;*

40 *(G) sexual exploitation of a child as defined in K.S.A. 21-3516, prior*
41 *to its repeal, or K.S.A. 2022 Supp. 21-5510, and amendments thereto;*

42 *(H) aggravated sexual battery as defined in K.S.A. 21-3518, prior to*
43 *its repeal, or K.S.A. 2022 Supp. 21-5505(b), and amendments thereto;*

1 (I) aggravated incest as defined in K.S.A. 21-3603, prior to its repeal,
2 or K.S.A. 2022 Supp. 21-5604(b), and amendments thereto;

3 (J) aggravated human trafficking as defined in K.S.A. 21-3447, prior
4 to its repeal, or K.S.A. 2022 Supp. 21-5426(b), and amendments thereto, if
5 committed in whole or in part for the purpose of the sexual gratification of
6 the defendant or another;

7 (K) internet trading in child pornography or aggravated internet
8 trading in child pornography as defined in K.S.A. 2022 Supp. 21-5514,
9 and amendments thereto; or

10 (L) commercial sexual exploitation of a child as defined in K.S.A.
11 2022 Supp. 21-6422, and amendments thereto.

12 (b) Except as provided in subsection (e), a prosecution for any crime
13 shall be commenced within 10 years after its commission if the victim is
14 the Kansas public employees retirement system.

15 (c) Except as provided in ~~subsection~~ subsections (a) and (e), a
16 prosecution for a sexually violent crime as defined in K.S.A. 22-3717, and
17 amendments thereto:

18 (1) When the victim is 18 years of age or older shall be commenced
19 within 10 years or one year from the date on which the identity of the
20 suspect is conclusively established by DNA testing, whichever is later; or

21 (2) when the victim is under 18 years of age shall be commenced
22 within 10 years of the date the victim turns 18 years of age or one year
23 from the date on which the identity of the suspect is conclusively
24 established by DNA testing, whichever is later.

25 (d) Except as provided by in subsection (e), a prosecution for any
26 crime; as defined in K.S.A. 2022 Supp. 21-5102, and amendments thereto,
27 not governed by subsection (a), (b) or (c) shall be commenced within five
28 years after it is committed.

29 (e) The period within which a prosecution shall be commenced shall
30 not include any period in which:

31 (1) The accused is absent from the state;

32 (2) the accused is concealed within the state so that process cannot be
33 served upon the accused;

34 (3) the fact of the crime is concealed;

35 (4) a prosecution is pending against the defendant for the same
36 conduct, even if the indictment or information which commences the
37 prosecution is quashed or the proceedings thereon are set aside, or are
38 reversed on appeal;

39 (5) an administrative agency is restrained by court order from
40 investigating or otherwise proceeding on a matter before it as to any
41 criminal conduct defined as a violation of any of the provisions of article
42 41 of chapter 25 and article 2 of chapter 46 of the Kansas Statutes
43 Annotated, and amendments thereto, which may be discovered as a result

1 thereof regardless of who obtains the order of restraint; or

2 (6) whether the fact of the crime is concealed by the active act or
3 conduct of the accused, there is substantially competent evidence to
4 believe two or more of the following factors are present:

5 (A) The victim was a child under 15 years of age at the time of the
6 crime;

7 (B) the victim was of such age or intelligence that the victim was
8 unable to determine that the acts constituted a crime;

9 (C) the victim was prevented by a parent or other legal authority from
10 making known to law enforcement authorities the fact of the crime
11 whether or not the parent or other legal authority is the accused; and

12 (D) there is substantially competent expert testimony indicating the
13 victim psychologically repressed such witness' memory of the fact of the
14 crime, and in the expert's professional opinion the recall of such memory is
15 accurate and free of undue manipulation, and substantial corroborating
16 evidence can be produced in support of the allegations contained in the
17 complaint or information but in no event may a prosecution be
18 commenced as provided in subsection (e)(6) later than the date the victim
19 turns 28 years of age. Corroborating evidence may include, but is not
20 limited to, evidence the defendant committed similar acts against other
21 persons or evidence of contemporaneous physical manifestations of the
22 crime.

23 (f) An offense is committed either when every element occurs, or, if a
24 legislative purpose to prohibit a continuing offense plainly appears, at the
25 time when the course of conduct or the defendant's complicity therein is
26 terminated. Time starts to run on the day after the offense is committed.

27 (g) A prosecution is commenced when a complaint or information is
28 filed, or an indictment returned, and a warrant thereon is delivered to the
29 sheriff or other officer for execution. No such prosecution shall be deemed
30 to have been commenced if the warrant so issued is not executed without
31 unreasonable delay.

32 (h) As used in this section, "parent or other legal authority" shall
33 include, but not be limited to, natural and stepparents, grandparents, aunts,
34 uncles or siblings.

35 Sec. 3. K.S.A. 2022 Supp. 60-523 is hereby amended to read as
36 follows: 60-523. (a) No action for recovery of damages *for injuries*
37 suffered as a result of childhood sexual abuse shall be commenced more
38 than ~~three~~ 13 years after the date the ~~person~~ *victim* attains 18 years of age
39 or more than three years ~~from~~ *after* the date ~~the person discovers or~~
40 ~~reasonably should have discovered that the injury or illness was caused by~~
41 *of a criminal conviction for a crime described in subsection (b) related to*
42 *such childhood sexual abuse, whichever occurs later.*

43 (b) As used in this section:

1 ~~(1) "Injury or illness" includes psychological injury or illness, whether~~
 2 ~~or not accompanied by physical injury or illness.~~

3 ~~(2), "childhood sexual abuse" includes means any act committed~~
 4 ~~against the person which act that occurred when the person was under the~~
 5 ~~age of 18 years and which act that would have been a violation of any of~~
 6 ~~the following:~~

7 ~~(A)(1) Indecent liberties with a child as defined in K.S.A. 21-3503,~~
 8 ~~prior to its repeal, or subsection (a) of K.S.A. 2022 Supp. 21-5506(a), and~~
 9 ~~amendments thereto;~~

10 ~~(B)(2) aggravated indecent liberties with a child as defined in K.S.A.~~
 11 ~~21-3504, prior to its repeal, or subsection (b) of K.S.A. 2022 Supp. 21-~~
 12 ~~5506(b), and amendments thereto;~~

13 ~~(C)(3) aggravated criminal sodomy as defined in K.S.A. 21-3506,~~
 14 ~~prior to its repeal, or subsection (b) of K.S.A. 2022 Supp. 21-5504(b), and~~
 15 ~~amendments thereto;~~

16 ~~(D)(4) enticement of a child as defined in K.S.A. 21-3509, prior to its~~
 17 ~~repeal;~~

18 ~~(E)(5) indecent solicitation of a child as defined in K.S.A. 21-3510,~~
 19 ~~prior to its repeal, or subsection (a) of K.S.A. 2022 Supp. 21-5508(a), and~~
 20 ~~amendments thereto;~~

21 ~~(F)(6) aggravated indecent solicitation of a child as defined in K.S.A.~~
 22 ~~21-3511, prior to its repeal, or subsection (b) of K.S.A. 2022 Supp. 21-~~
 23 ~~5508(b), and amendments thereto;~~

24 ~~(G)(7) sexual exploitation of a child as defined in K.S.A. 21-3516,~~
 25 ~~prior to its repeal, or K.S.A. 2022 Supp. 21-5510, and amendments~~
 26 ~~thereto; or~~

27 ~~(H)(8) internet trading in child pornography or aggravated internet~~
 28 ~~trading in child pornography as defined in K.S.A. 2022 Supp. 21-5514,~~
 29 ~~and amendments thereto;~~

30 ~~(9) aggravated incest as defined in K.S.A. 21-3603, prior to its repeal,~~
 31 ~~or subsection (b) of K.S.A. 2022 Supp. 21-5604(b), and amendments~~
 32 ~~thereto; or~~

33 ~~(10) any prior laws of this state of similar effect at the time the act~~
 34 ~~was committed.~~

35 ~~(c) Discovery that the injury or illness was caused by childhood~~
 36 ~~sexual abuse shall not be deemed to have occurred solely by virtue of the~~
 37 ~~person's awareness, knowledge or memory of the acts of abuse. The person~~
 38 ~~need not establish which act in a series of continuing sexual abuse~~
 39 ~~incidents caused the injury or illness complained of, but may compute the~~
 40 ~~date of discovery from the date of discovery of the last act by the same~~
 41 ~~perpetrator which is a part of a common scheme or plan of sexual abuse.~~

42 ~~(d) This section shall be applicable to:~~

43 ~~(1) any action commenced on or after July 1, 1992, including any~~

1 action ~~which~~ *that* would be barred by application of the period of
2 limitation applicable prior to July 1, 1992;

3 ~~(2) any action commenced prior to July 1, 1992, and pending on July~~
4 ~~1, 1992.~~

5 Sec. 4. K.S.A. 75-6104 is hereby amended to read as follows: 75-
6 6104. (a) A governmental entity or an employee acting within the scope of
7 the employee's employment shall not be liable for damages resulting from:

8 ~~(a)~~(1) Legislative functions, including, but not limited to, the
9 adoption or failure to adopt any statute, regulation, ordinance or
10 resolution;

11 ~~(b)~~(2) judicial function;

12 ~~(c)~~(3) enforcement of or failure to enforce a law, whether valid or
13 invalid, including, but not limited to, any statute, rule and regulation,
14 ordinance or resolution;

15 ~~(d)~~(4) adoption or enforcement of, or failure to adopt or enforce, any
16 written personnel policy which protects persons' health or safety unless a
17 duty of care, independent of such policy, is owed to the specific individual
18 injured, except that the finder of fact may consider the failure to comply
19 with any written personnel policy in determining the question of
20 negligence;

21 ~~(e)~~(5) any claim based upon the exercise or performance or the failure
22 to exercise or perform a discretionary function or duty on the part of a
23 governmental entity or employee, whether or not the discretion is abused
24 and regardless of the level of discretion involved;

25 ~~(f)~~(6) the assessment or collection of taxes or special assessments;

26 ~~(g)~~(7) any claim by an employee of a governmental entity arising
27 from the tortious conduct of another employee of the same governmental
28 entity, if such claim is:

29 ~~(h)~~(A) Compensable pursuant to the Kansas workers compensation
30 act; or

31 ~~(i)~~(B) not compensable pursuant to the Kansas workers
32 compensation act because the injured employee was a firemen's relief
33 association member who was exempt from such act pursuant to K.S.A. 44-
34 505d, and amendments thereto, at the time the claim arose;

35 ~~(j)~~(8) the malfunction, destruction or unauthorized removal of any
36 traffic or road sign, signal or warning device unless it is not corrected by
37 the governmental entity responsible within a reasonable time after actual
38 or constructive notice of such malfunction, destruction or removal.
39 Nothing herein shall give rise to liability arising from the act or omission
40 of any governmental entity in placing or removing any of the above signs,
41 signals or warning devices when such placement or removal is the result of
42 a discretionary act of the governmental entity;

43 ~~(k)~~(9) any claim which is limited or barred by any other law or which

1 is for injuries or property damage against an officer, employee or agent
2 where the individual is immune from suit or damages;

3 ~~(j)~~(10) any claim based upon emergency management activities,
4 except that governmental entities shall be liable for claims to the extent
5 provided in article 9 of chapter 48 of the Kansas Statutes Annotated, *and*
6 *amendments thereto*;

7 ~~(k)~~(11) the failure to make an inspection, or making an inadequate or
8 negligent inspection, of any property other than the property of the
9 governmental entity, to determine whether the property complies with or
10 violates any law or rule and regulation or contains a hazard to public
11 health or safety;

12 ~~(l)~~(12) snow or ice conditions or other temporary or natural
13 conditions on any public way or other public place due to weather
14 conditions, unless the condition is affirmatively caused by the negligent
15 act of the governmental entity;

16 ~~(m)~~(13) the plan or design for the construction of or an improvement
17 to public property, either in its original construction or any improvement
18 thereto, if the plan or design is approved in advance of the construction or
19 improvement by the governing body of the governmental entity or some
20 other body or employee exercising discretionary authority to give such
21 approval and if the plan or design was prepared in conformity with the
22 generally recognized and prevailing standards in existence at the time such
23 plan or design was prepared;

24 ~~(n)~~(14) failure to provide, or the method of providing, police or fire
25 protection;

26 ~~(o)~~(15) any claim for injuries resulting from the use of any public
27 property intended or permitted to be used as a park, playground or open
28 area for recreational purposes, unless: (A) The governmental entity or an
29 employee thereof is guilty of gross and wanton negligence proximately
30 causing such injury; *or* (B) *an employee of the governmental entity*
31 *commits childhood sexual abuse as defined in K.S.A. 60-523, and*
32 *amendments thereto*;

33 ~~(p)~~(16) the natural condition of any unimproved public property of
34 the governmental entity;

35 ~~(q)~~(17) any claim for injuries resulting from the use or maintenance
36 of a public cemetery owned and operated by a municipality or an
37 abandoned cemetery, title to which has vested in a governmental entity
38 pursuant to K.S.A. 17-1366 through 17-1368, and amendments thereto,
39 unless the governmental entity or an employee thereof is guilty of gross
40 and wanton negligence proximately causing the injury;

41 ~~(r)~~(18) the existence, in any condition, of a minimum maintenance
42 road, after being properly so declared and signed as provided in K.S.A. 68-
43 5,102, and amendments thereto;

1 ~~(s)~~(19) any claim for damages arising from the operation of vending
2 machines authorized pursuant to K.S.A. 68-432 or ~~K.S.A.~~ 75-3343a, and
3 amendments thereto;

4 ~~(t)~~(20) providing, distributing or selling information from geographic
5 information systems which includes an entire formula, pattern,
6 compilation, program, device, method, technique, process, digital database
7 or system which electronically records, stores, reproduces and manipulates
8 by computer geographic and factual information which has been
9 developed internally or provided from other sources and compiled for use
10 by a public agency, either alone or in cooperation with other public or
11 private entities;

12 ~~(u)~~(21) any claim arising from providing a juvenile justice program to
13 juvenile offenders, if such juvenile justice program has contracted with the
14 commissioner of juvenile justice or with another nonprofit program that
15 has contracted with the commissioner of juvenile justice. The provisions of
16 this section do not apply to community service work within the scope of
17 K.S.A. 60-3614, and amendments thereto, *or to claims arising from*
18 *childhood sexual abuse as defined in K.S.A. 60-523, and amendments*
19 *thereto*;

20 ~~(v)~~(22) performance of, or failure to perform, any activity pursuant to
21 K.S.A. 74-8922, and amendments thereto, including, but not limited to,
22 issuance and enforcement of a consent decree agreement, oversight of
23 contaminant remediation and taking title to any or all of the federal
24 enclave described in such statute;

25 ~~(w)~~(23) any claim arising from the making of a donation of used or
26 excess fire control, fire rescue, or emergency medical services equipment
27 to a fire department, fire district, volunteer fire department, medical
28 emergency response team or the Kansas forest service if at the time of
29 making the donation the donor believes that the equipment is serviceable
30 or may be made serviceable. This subsection also applies to equipment that
31 is acquired through the federal excess personal property program
32 established by the federal property and administrative services act of 1949
33 (~~P.L. 81-152; 63 stat. 377; 40 United States Code Section, 40 U.S.C. §~~
34 ~~483~~). This subsection shall apply to any breathing apparatus or any
35 mechanical or electrical device which functions to monitor, evaluate, or
36 restore basic life functions, only if it is recertified to the manufacturer's
37 specifications by a technician certified by the manufacturer; or

38 ~~(x)~~(24) any claim arising from the acceptance of a donation of fire
39 control, fire rescue or emergency medical services equipment, if at the
40 time of the donation the donee reasonably believes that the equipment is
41 serviceable or may be made serviceable and if after placing the donated
42 equipment into service, the donee maintains the donated equipment in a
43 safe and serviceable manner.

1 (b) The enumeration of exceptions to liability in this section shall not
2 be construed to be exclusive nor as legislative intent to waive immunity
3 from liability in the performance or failure to perform any other act or
4 function of a discretionary nature.

5 (c) *The exceptions to liability in subsections (a)(1) through (a)(4)*
6 *shall not be construed to preclude, prohibit or otherwise limit a claim for*
7 *damages arising from childhood sexual abuse as defined in K.S.A. 60-523,*
8 *and amendments thereto. Failure of a governmental entity to adopt or*
9 *enforce a policy, regulation or law related to childhood sexual abuse and*
10 *failure to exercise reasonable discretion in the supervision of a*
11 *governmental employee who commits childhood sexual abuse may be*
12 *considered by the trier of fact in determining the question of a*
13 *governmental entity's negligence.*

14 Sec. 5. K.S.A. 75-6105 is hereby amended to read as follows: 75-
15 6105. (a) Subject to the provisions of K.S.A. 75-6111, and amendments
16 thereto, the liability for claims within the scope of this act shall not exceed
17 \$500,000 for any number of claims arising out of a single occurrence or
18 accident.

19 (b) When the amount awarded to or settled upon multiple claimants
20 exceeds the limitations of this section, any party may apply to the district
21 court which has jurisdiction of the cause to apportion to each claimant the
22 proper share of the total amount limited ~~herein~~ *by this section*. The share
23 apportioned to each claimant shall be in the proportion that the ratio of the
24 award or settlement made to the claimant bears to the aggregate awards
25 and settlements for all claims arising out of the occurrence or accident.

26 (c) A governmental entity shall not be liable for punitive or
27 exemplary damages or for interest prior to judgment. An employee acting
28 within the scope of the employee's employment shall not be liable for
29 punitive or exemplary damages or for interest prior to judgment, except for
30 any act or omission of the employee because of actual fraud or actual
31 malice.

32 (d) *This section shall not apply to any claim for recovery of damages*
33 *against a governmental entity arising from childhood sexual abuse as*
34 *defined in K.S.A. 60-523, and amendments thereto.*

35 Sec. 6. K.S.A. 12-105b, 75-6104 and 75-6105 and K.S.A. 2022 Supp.
36 21-5107 and 60-523 are hereby repealed.

37 Sec. 7. This act shall take effect and be in force from and after its
38 publication in the statute book.