

Senate Substitute for HOUSE BILL No. 2153

By Committee on Judiciary

3-30

1 AN ACT concerning children and minors; establishing the office of the
2 child advocate within the office of the attorney general and prescribing
3 certain powers, duties and functions therefor; the joint committee on
4 child welfare system oversight; authorizing access to certain records;
5 amending K.S.A. 2020 Supp. 38-2211, 38-2212, 38-2213, 38-2309 and
6 38-2310 and repealing the existing sections.

7
8 *Be it enacted by the Legislature of the State of Kansas:*

9 New Section 1. (a) Sections 1 through 5, and amendments thereto,
10 shall be known and may be cited as the child advocate act.

11 (b) As used in the child advocate act:

12 (1) "Office" means the office of the child advocate within the office
13 of the attorney general and includes the child advocate and staff; and

14 (2) "child" means an individual less than 18 years of age at the time
15 such individual:

16 (A) Is in the custody of the secretary for children and families;

17 (B) was previously in the custody of the secretary for children and
18 families;

19 (C) is alleged to be a child in need of care as provided in K.S.A. 2020
20 Supp. 38-2201 et seq., and amendments thereto; or

21 (D) was receiving services, treatment or other programs from the
22 department of corrections.

23 New Sec. 2. (a) There is hereby established within and under the
24 jurisdiction of the attorney general a division known as the office of the
25 child advocate.

26 (b) (1) The office shall be administered by the child advocate. When a
27 vacancy occurs or will occur in the position of the child advocate, the
28 attorney general shall promptly notify the chairperson of the joint
29 committee on child welfare system oversight. The joint committee on child
30 welfare system oversight shall promptly receive applications for the
31 position of the child advocate and recommend three child advocate
32 applicants to the attorney general, who shall appoint the child advocate
33 subject to confirmation by the senate as provided by K.S.A. 75-4315b, and
34 amendments thereto. No person appointed to the position of the child
35 advocate shall exercise any power, duty or function of the child advocate
36 until confirmed by the senate. The child advocate shall be selected without

1 regard to political affiliation and on the basis of integrity and capacity for
2 effectively carrying out the duties of the office.

3 (2) No former or current executive or manager of any program or
4 agency or contracting agency subject to oversight by the office may be
5 appointed to the position of the child advocate within 12 months of that
6 individual's period of service with such program or agency.

7 (3) A person appointed to the position of the child advocate shall
8 serve for a term that shall expire on January 15 of each even-numbered
9 year, beginning in 2022.

10 (4) The child advocate shall be in the unclassified service and shall
11 receive an annual salary in an amount equal to the annual salary paid by
12 the state to a district court judge.

13 (5) The child advocate shall exercise independent judgment in
14 carrying out the duties of the office. The child advocate shall report to the
15 attorney general and may be removed from office prior to the expiration of
16 the child advocate's term of office by the attorney general for cause.

17 (c) (1) Subject to this subsection, the child advocate shall have
18 general managerial control over the office of the child advocate and shall
19 establish the organizational structure of the office as the child advocate
20 deems appropriate to carry out the responsibilities and functions of the
21 office.

22 (2) All budgeting, purchasing, personnel and related administrative
23 functions of the office shall be administered under the direction and
24 supervision of the attorney general.

25 (3) Appropriations for the office shall be made to the attorney general
26 by separate line item appropriations for the office.

27 (4) Within the limits of appropriations therefor, the attorney general
28 may hire such employees in the unclassified service as are necessary to
29 administer the office. Such employees shall serve at the pleasure of the
30 attorney general. Subject to appropriations and this subsection, the child
31 advocate may obtain the services of other professionals necessary to
32 independently perform the functions of the office, including obtaining
33 legal services as provided by K.S.A. 75-769, and amendments thereto.

34 New Sec. 3. (a) The purpose of the office of the child advocate is to
35 receive and resolve complaints from legislators and from persons involved
36 with the child welfare system alleging that the Kansas department for
37 children and families, the department's contracting agencies or the
38 department of corrections has provided inadequate protection or care of
39 children and assist the legislature in conducting oversight of the child
40 welfare system to improve the safety and welfare of children.

41 (b) The office shall receive complaints that allege the Kansas
42 department for children and families, the department's contracting agencies
43 or the department of corrections by act or omission, failed to protect the

1 physical or mental health, safety or welfare of any child or failed to follow
2 established laws, rules and regulations or written policies. The child
3 advocate shall:

4 (1) Establish and implement procedures for receiving complaints;

5 (2) provide the Kansas department for children and families with a
6 notice of availability that describes the office and procedures for
7 contacting the office. The department shall ensure such notice is
8 prominently posted in department offices and facilities receiving public
9 moneys for the care and placement of children;

10 (3) maintain a publicly available website; and

11 (4) publicize and notify individuals of the office's services, purpose
12 and contact information.

13 (c) After consultation with the joint committee on child welfare
14 system oversight, the child advocate may establish limits for the type or
15 number of complaints the office receives to maintain the office's ability to
16 properly investigate and resolve such complaints considering the office's
17 personnel, resources, authority and expertise.

18 (d) The office shall independently investigate complaints received
19 pursuant to subsection (b) if the office reasonably believes the complaint's
20 allegations may be independently verified through an investigation. To
21 investigate, the office shall:

22 (1) Establish and implement procedures for investigating complaints;

23 (2) have access to the following information:

24 (A) The names and physical location of all children in protective
25 services, treatment or other programs under the jurisdiction of the Kansas
26 department for children and families or the department of corrections;

27 (B) all written reports of child abuse and neglect;

28 (C) all records of any public or private agency or institution having
29 custody of the child under court order, providing education, medical or
30 mental health services to the child or any placement or potential placement
31 provider determined by the secretary for children and families; and

32 (D) all current records required to be maintained pursuant to articles
33 22 and 23 of chapter 38 of the Kansas Statutes Annotated, and
34 amendments thereto;

35 (3) communicate privately with:

36 (A) Any child or child's siblings, after consultation with treatment
37 professionals and service providers; and

38 (B) anyone working with the child, including the family, relatives,
39 employees of the Kansas department for children and families or the
40 department of corrections and other persons or entities providing treatment
41 and services;

42 (4) have access to, including the right to inspect and copy, relevant
43 child records held by law enforcement agencies, the clerk of any Kansas

- 1 court, juvenile officers, public or private institutions and other agencies or
- 2 persons with whom a particular child has been either voluntarily or
- 3 otherwise placed for care or from whom the child has received treatment
- 4 within this state or in another state;
- 5 (5) work in conjunction with juvenile intake and assessment workers,
- 6 juvenile community corrections officers, guardians ad litem and court
- 7 appointed special advocates; and
- 8 (6) take statements under oath, serve interrogatories and request
- 9 judicial approval to subpoena materials or witnesses.
- 10 (e) To resolve complaints received pursuant to subsection (b), the
- 11 office shall:
 - 12 (1) Establish and implement procedures to resolve the complaints;
 - 13 (2) independently review the subject of the complaint and after the
 - 14 initial review of the complaint and any accompanying material, the child
 - 15 advocate may recommend that a department or contracting agency:
 - 16 (A) Consider the matter further;
 - 17 (B) modify or cancel the department or contracting agencies' actions;
 - 18 (C) alter a rule, order or internal policy;
 - 19 (D) explain the action further; or
 - 20 (E) within a reasonable time after receiving a recommendation,
 - 21 provide the office information concerning the department or contracting
 - 22 agency action to implement or not implement recommendations made by
 - 23 the office pursuant to this paragraph;
 - 24 (3) submit any findings or recommendations pursuant to paragraph
 - 25 (2) to the secretary for children and families or the secretary of corrections
 - 26 as appropriate;
 - 27 (4) upon reason to believe a criminal investigation is warranted, make
 - 28 a referral of child abuse or neglect to an appropriate law enforcement
 - 29 agency with jurisdiction over the matter and notify the abuse, neglect and
 - 30 exploitation unit of the office of the attorney general; and
 - 31 (5) produce reports of findings of fact or conclusions of law regarding
 - 32 any complaint, and, if appropriate, the attorney general may file such
 - 33 reports in any pending child in need of care case on behalf of the office.
 - 34 (f) To assist the legislature in oversight of the child welfare system,
 - 35 the office may:
 - 36 (1) Meet and discuss any matter in the scope of the child advocate act
 - 37 with the joint committee on child welfare system oversight in regular or
 - 38 executive session under the same duties of confidentiality provided for the
 - 39 child advocate;
 - 40 (2) review relevant statutes, rules and regulations, policies and
 - 41 procedures for the health, safety and welfare of children;
 - 42 (3) evaluate the effectiveness of and recommend changes to
 - 43 procedures for reports of child abuse and neglect for child protective

1 services, including, but not limited to, the involvement of the Kansas
2 department for children and families, service providers, guardians ad
3 litem, court appointed special advocates and law enforcement agencies;
4 and

5 (4) review and recommend changes to law enforcement investigative
6 procedures for and emergency responses to reports of abuse and neglect.

7 (g) On or before the beginning of each regular session of the
8 legislature, the office shall prepare and submit a report to the legislature
9 that includes recommendations for changes in statute, proposed annual
10 budget, personnel and any other topics the office deems appropriate to
11 properly perform the powers, duties and functions provided by the child
12 advocate act.

13 (h) The annual budget request of the office shall be prepared by the
14 child advocate and presented to the joint committee on child welfare
15 system oversight. Upon the approval of the joint committee on child
16 welfare system oversight, the child advocate shall submit the budget
17 request to the office of the attorney general to include with the office of the
18 attorney general's annual budget request to the director of the budget as
19 budget requests are submitted as provided by K.S.A. 75-3717, and
20 amendments thereto.

21 (i) To assist the office in the office's duties under the child advocate
22 act, employees of the Kansas department for children and families, the
23 department's contracting agencies, the department of corrections, juvenile
24 intake and assessment workers, juvenile community corrections officers,
25 guardians ad litem and court appointed special advocates shall:

26 (1) Work diligently, promptly and in good faith to assist the office in
27 performing the office's powers, duties and functions provided by the child
28 advocate act;

29 (2) provide full access to and production of records and information
30 requested by the office in the office's duties provided by the act. Such
31 access shall not be a violation of confidentiality of such records if
32 provided and produced in good faith for the purposes of the act;

33 (3) require employees and contractors of such department or agency
34 to comply with requests from the office in such office's duties provided by
35 the act;

36 (4) allow employees of such department or agency to file a complaint
37 with or provide records or information to the office without supervisory
38 approval;

39 (5) not willfully interfere with or obstruct any of the office's duties
40 provided by the act; and

41 (6) promptly meet and consult with the office upon request of the
42 office.

43 New Sec. 4. (a) For any information obtained from a state agency or

1 other entity under the child advocate act, the office shall be subject to
2 K.S.A. 2020 Supp. 38-2201 et seq. and 38-2301 et seq., and amendments
3 thereto, and any federal statutory disclosure restrictions and confidentiality
4 requirements that are applicable to the state agency or other entity
5 providing such information to the office.

6 (b) Any files maintained by the office shall be confidential and
7 disclosed only at the discretion of the child advocate, except that the
8 identity of any complainant or child shall not be disclosed by the office
9 unless:

10 (1) The complainant or child, respectively, or the complainant's or
11 child's legal representative, consents in writing to such disclosure; or

12 (2) such disclosure is required by court order.

13 (c) Any statement or communication made by the office relevant to a
14 complaint being investigated by the office and any complaint or
15 information made or provided in good faith by any person shall be
16 absolutely privileged, and such person shall be immune from suit.

17 (d) A representative of the office conducting or participating in any
18 investigation of a complaint shall not knowingly disclose to any person
19 other than the office, or a person authorized by the office, the name of any
20 witness examined or any information obtained or given during such
21 investigation. Violation of this subsection is a class A nonperson
22 misdemeanor.

23 (e) The office conducting or participating in any investigation of a
24 complaint shall disclose the final result of the investigation with the
25 consent of the child or child's legal representative.

26 (f) The office shall not be required to testify in any court with respect
27 to matters held to be confidential in this section, except as the court may
28 deem necessary to enforce the provisions of the child advocate act or when
29 otherwise required by court order.

30 (g) The provisions of this section providing for confidentiality of
31 records shall expire on July 1, 2026, unless the legislature reenacts such
32 provisions. The legislature shall review this section pursuant to K.S.A. 45-
33 229, and amendments thereto, prior to July 1, 2026.

34 New Sec. 5. (a) (1) Except as provided by paragraph (2), no
35 retaliatory action shall knowingly be taken against any child or employee
36 of the Kansas department for children and families or the department of
37 corrections for any communication made or information given to the
38 office. Violation of this paragraph is a class A nonperson misdemeanor.

39 (2) Paragraph (1) shall not apply to an employee who discloses:

40 (A) Information that such employee knows to be false or information
41 without regard for the truth or falsity of the information; or

42 (B) without lawful authority, information that is confidential as
43 provided by any other provision of law.

1 (b) As used in this section, "retaliatory action" includes, but is not
2 limited to:

- 3 (1) Letters of reprimand or unsatisfactory performance evaluations;
- 4 (2) transfer;
- 5 (3) demotion;
- 6 (4) reduction in pay;
- 7 (5) denial of promotion;
- 8 (6) suspension;
- 9 (7) dismissal; and
- 10 (8) denial of employment.

11 New Sec. 6. (a) There is hereby established the joint committee on
12 child welfare system oversight. The joint committee shall review:

13 (1) The office of the child advocate's report submitted pursuant to
14 section 3(g), and amendments thereto, concerning changes in statute,
15 personnel and any other topics the office deems appropriate to properly
16 perform the powers, duties and functions provided by the child advocate
17 act;

18 (2) the office's proposed annual budget;

19 (3) data on child maltreatment and demographic trends impacting the
20 child welfare system;

21 (4) the duties, responsibilities and contributions of the Kansas
22 department for children and families, the Kansas department for aging and
23 disability services, the department of health and environment, the
24 department of corrections, law enforcement and the judicial branch that
25 comprise and impact the child welfare system;

26 (5) the programs, services and benefits offered directly or through
27 grants or contracts by the Kansas department for children and families, the
28 Kansas department for aging and disability services, the department of
29 health and environment, the department of corrections and the judicial
30 branch that impact children and families at risk of becoming involved or
31 who are involved in the child welfare system, including, but not limited to:

32 (A) Child maltreatment prevention;

33 (B) investigations of child maltreatment;

34 (C) in-home family services, including, but not limited to, services
35 offered through federal prevention and family preservation funding; and

36 (D) foster care, reintegration and adoption services;

37 (6) trends, performance outcomes, activities and improvement plans
38 related to federal child and family services reviews;

39 (7) reports from child welfare-related groups, including, but not
40 limited to, citizen review panels, the Kansas supreme court permanency
41 planning task force, the Kansas children's cabinet and any interim study
42 committees or work groups authorized by the Kansas legislature;

43 (8) implementation of the 2019 child welfare system task force report

1 recommendations, including, but not limited to, top-tier recommendations
2 related to the child welfare workforce, data technology, access to
3 behavioral healthcare for high-risk youth and implementation of the
4 federal family first prevention services act;

5 (9) reports on concerns received from the Kansas department for
6 children and families child welfare ombudsman, customer service
7 department or similar office;

8 (10) opportunities for Kansas to strengthen the child welfare system
9 through evidence-based interventions and services for children and
10 families; and

11 (11) any other topic the joint committee deems appropriate.

12 (b) The joint committee shall consist of 13 members of the legislature
13 appointed as follows:

14 (1) Two members of the house of representatives standing committee
15 on children and seniors appointed by the speaker of the house of
16 representatives;

17 (2) one member of the house of representatives standing committee
18 on children and seniors appointed by the minority leader of the house of
19 representatives;

20 (3) two members of the senate standing committee on public health
21 and welfare appointed by the president of the senate;

22 (4) one member of the senate standing committee on public health
23 and welfare appointed by the minority leader of the senate;

24 (5) two members of the house of representatives appointed by the
25 speaker of the house of representatives;

26 (6) one member of the house of representatives appointed by the
27 minority leader of the house of representatives;

28 (7) two members of the senate appointed by the president of the
29 senate;

30 (8) one member of the senate appointed by the minority leader of the
31 senate; and

32 (9) one member of the house of representatives appointed by the
33 majority leader of the house of representatives.

34 (c) Members shall be appointed for terms coinciding with the
35 legislative terms for which such members are elected or appointed. All
36 members appointed to fill vacancies in the membership of the joint
37 committee and all members appointed to succeed members appointed to
38 the membership on the joint committee shall be appointed in the manner
39 provided for the original appointment of the member succeeded.

40 (d) (1) The first chairperson of the joint committee shall be appointed
41 by the speaker of the house of representatives from among the members of
42 the joint committee appointed by the speaker of the house of
43 representatives, within 30 days of the effective date of this section. The

1 chairperson and vice chairperson of the joint committee shall alternate
2 annually between the members appointed by the speaker of the house or
3 representatives and the president of the senate.

4 (2) The representative chairperson or vice chairperson shall be
5 designated by the speaker of the house of representatives. The senator
6 chairperson or vice chairperson shall be designated by the president of the
7 senate. The ranking minority member shall be from the same chamber as
8 the chairperson and shall be designated by the minority leader of such
9 chamber.

10 (e) The members originally appointed as members of the joint
11 committee shall meet upon the call of the chairperson on or after July 1,
12 2021. Thereafter, the joint committee shall meet at least once during each
13 of the first and second calendar quarters when the legislature is in regular
14 session and at least once during each of the third and fourth calendar
15 quarters, on the call of the chairperson, but not to exceed six meetings in a
16 calendar year.

17 (f) Seven members of the joint committee shall constitute a quorum.

18 (g) At the beginning of each regular session of the legislature, the
19 joint committee shall submit to the president of the senate, the speaker of
20 the house of representatives, the house of representatives standing
21 committee on children and seniors and the senate standing committee on
22 public health and welfare a written report that shall include recommended
23 changes to statutes, rules and regulations and policies regarding the safety
24 and well-being of children in the child welfare system in the state of
25 Kansas.

26 (h) Members of the joint committee shall be paid compensation,
27 amounts for travel expenses and subsistence expenses or allowances as
28 provided in K.S.A. 75-3212, and amendments thereto, for attendance at
29 any meeting of the joint committee or any subcommittee meeting
30 authorized by the committee.

31 (i) In accordance with K.S.A. 46-1204, and amendments thereto, the
32 legislative coordinating council may provide for such professional services
33 as may be requested by the joint committee.

34 (j) The joint committee may introduce legislation and make
35 recommendations as necessary in performing the joint committee's
36 functions.

37 Sec. 7. K.S.A. 2020 Supp. 38-2211 is hereby amended to read as
38 follows: 38-2211. (a) *Access to the official file*. The following persons or
39 entities shall have access to the official file of a child in need of care
40 proceeding pursuant to this code:

41 (1) The court having jurisdiction over the proceedings, including the
42 presiding judge and any court personnel designated by the judge.

43 (2) The parties to the proceedings and their attorneys.

1 (3) The guardian ad litem for a child who is the subject of the
2 proceeding.

3 (4) A court appointed special advocate for a child who is the subject
4 of the proceeding or a paid staff member of a court appointed special
5 advocate program.

6 (5) Any individual, or any public or private agency or institution,
7 having custody of the child under court order or providing educational,
8 medical or mental health services to the child or any placement provider or
9 potential placement provider as determined by the secretary or court
10 services officer.

11 (6) A citizen review board.

12 (7) The secretary of corrections or any agents designated by the
13 secretary of corrections.

14 (8) Any county or district attorney from another jurisdiction with a
15 pending child in need of care matter regarding any of the same parties.

16 (9) *The office of the child advocate pursuant to the child advocate*
17 *act.*

18 (10) Any other person when authorized by a court order, subject to
19 any conditions imposed by the order.

20 ~~(10)~~(11) The commission on judicial performance in the discharge of
21 the commission's duties pursuant to article 32 of chapter 20 of the Kansas
22 Statutes Annotated, and amendments thereto.

23 (b) *Access to the social file.* The following persons or entities shall
24 have access to the social file of a child in need of care proceeding pursuant
25 to this code:

26 (1) The court having jurisdiction over the proceeding, including the
27 presiding judge and any court personnel designated by the judge.

28 (2) The attorney for a party to the proceeding or the person or persons
29 designated by an Indian tribe that is a party.

30 (3) The guardian ad litem for a child who is the subject of the
31 proceeding.

32 (4) A court appointed special advocate for a child who is the subject
33 of the proceeding or a paid staff member of a court appointed special
34 advocate program.

35 (5) A citizen review board.

36 (6) The secretary.

37 (7) The secretary of corrections or any agents designated by the
38 secretary of corrections.

39 (8) Any county or district attorney from another jurisdiction with a
40 pending child in need of care matter regarding any of the same parties or
41 interested parties.

42 (9) *The office of the child advocate pursuant to the child advocate*
43 *act.*

1 (10) Any other person when authorized by a court order, subject to
2 any conditions imposed by the order.

3 (c) *Preservation of records.* The Kansas state historical society shall
4 be allowed to take possession for preservation in the state archives of any
5 court records related to proceedings under the Kansas code for care of
6 children whenever such records otherwise would be destroyed. No such
7 records in the custody of the Kansas state historical society shall be
8 disclosed directly or indirectly to anyone for 70 years after creation of the
9 records, except as provided in subsections (a) and (b). Pursuant to
10 subsections (a)(9) and (b)(9), a judge of the district court may allow
11 inspection for research purposes of any court records in the custody of the
12 Kansas state historical society related to proceedings under the Kansas
13 code for care of children.

14 Sec. 8. K.S.A. 2020 Supp. 38-2212 is hereby amended to read as
15 follows: 38-2212. (a) *Principle of appropriate access.* Information
16 contained in confidential agency records concerning a child alleged or
17 adjudicated to be in need of care may be disclosed as provided in this
18 section. Disclosure shall in all cases be guided by the principle of
19 providing access only to persons or entities with a need for information
20 that is directly related to achieving the purposes of this code.

21 (b) *Free exchange of information.* Pursuant to K.S.A. 2020 Supp. 38-
22 2210, and amendments thereto, the secretary and juvenile intake and
23 assessment agencies shall participate in the free exchange of information
24 concerning a child who is alleged or adjudicated to be in need of care.

25 (c) *Necessary access.* The following persons or entities shall have
26 access to information from agency records. Access shall be limited to
27 information reasonably necessary to carry out their lawful responsibilities,
28 to maintain their personal safety and the personal safety of individuals in
29 their care, or to educate, diagnose, treat, care for or protect a child alleged
30 to be in need of care. Information authorized to be disclosed pursuant to
31 this subsection shall not contain information that identifies a reporter of a
32 child who is alleged or adjudicated to be a child in need of care.

33 (1) A child named in the report or records, a guardian ad litem
34 appointed for the child and the child's attorney.

35 (2) A parent or other person responsible for the welfare of a child, or
36 such person's legal representative.

37 (3) ~~A court appointed~~ *court appointed* special advocate for a child, a
38 citizen review board or other advocate that reports to the court.

39 (4) A person licensed to practice the healing arts or mental health
40 profession in order to diagnose, care for, treat or supervise a:

41 (A) ~~A~~ Child whom such service provider reasonably suspects may be
42 in need of care;

43 (B) ~~a~~ member of the child's family; or

1 (C) a person who allegedly abused or neglected the child.

2 (5) A person or entity licensed or registered by the secretary of health
3 and environment or approved by the secretary for children and families to
4 care for, treat or supervise a child in need of care.

5 (6) A coroner or medical examiner when such person is determining
6 the cause of death of a child.

7 (7) The state child death review board established under K.S.A. 22a-
8 243, and amendments thereto.

9 (8) An attorney for a private party who files a petition pursuant to
10 K.S.A. 2020 Supp. 38-2233(b), and amendments thereto.

11 (9) A foster parent, prospective foster parent, permanent custodian,
12 prospective permanent custodian, adoptive parent or prospective adoptive
13 parent. In order to assist such persons in making an informed decision
14 regarding acceptance of a particular child, to help the family anticipate
15 problems that may occur during the child's placement, and to help the
16 family meet the needs of the child in a constructive manner, the secretary
17 shall seek and shall provide the following information to such persons as
18 the information becomes available to the secretary:

19 (A) Strengths, needs and general behavior of the child;

20 (B) circumstances that necessitated placement;

21 (C) information about the child's family and the child's relationship to
22 the family that may affect the placement;

23 (D) important life experiences and relationships that may affect the
24 child's feelings, behavior, attitudes or adjustment;

25 (E) medical history of the child, including third-party coverage that
26 may be available to the child; and

27 (F) education history, to include present grade placement, special
28 strengths and weaknesses.

29 (10) The state protection and advocacy agency as provided by K.S.A.
30 65-5603(a)(10) or ~~K.S.A.~~ 74-5515(a)(2)(A) and (B), and amendments
31 thereto.

32 (11) Any educational institution to the extent necessary to enable the
33 educational institution to provide the safest possible environment for its
34 pupils and employees.

35 (12) Any educator to the extent necessary to enable the educator to
36 protect the personal safety of the educator and the educator's pupils.

37 (13) *The office of the child advocate pursuant to the child advocate*
38 *act.*

39 (14) Any other federal, state or local government executive branch
40 entity or any agent of such entity, having a need for such information in
41 order to carry out such entity's responsibilities under the law to protect
42 children from abuse and neglect.

43 (d) *Specified access.* The following persons or entities shall have

1 access to information contained in agency records as specified.
2 Information authorized to be disclosed pursuant to this subsection shall not
3 contain information that identifies a reporter of a child who is alleged or
4 adjudicated to be a child in need of care.

5 (1) Information from confidential agency records of the Kansas
6 department for children and families, a law enforcement agency or any
7 juvenile intake and assessment worker of a child alleged or adjudicated to
8 be in need of care shall be available to members of the standing house or
9 senate committee on judiciary, house committee on corrections and
10 juvenile justice, house committee on appropriations, senate committee on
11 ways and means, legislative post audit committee and any joint committee
12 with authority to consider children's and families' issues, when carrying
13 out such member's or committee's official functions in accordance with
14 K.S.A. 75-4319, and amendments thereto, in a closed or executive
15 meeting. Except in limited conditions established by $\frac{2}{3}$ of the members of
16 such committee, records and reports received by the committee shall not
17 be further disclosed. Unauthorized disclosure may subject such member to
18 discipline or censure from the house of representatives or senate. The
19 secretary for children and families shall not summarize the outcome of
20 department actions regarding a child alleged to be a child in need of care
21 in information available to members of such committees.

22 (2) The secretary for children and families may summarize the
23 outcome of department actions regarding a child alleged to be a child in
24 need of care to a person having made such report.

25 (3) Information from confidential reports or records of a child alleged
26 or adjudicated to be a child in need of care may be disclosed to the public
27 when:

28 (A) The individuals involved or their representatives have given
29 express written consent; or

30 (B) the investigation of the abuse or neglect of the child or the filing
31 of a petition alleging a child to be in need of care has become public
32 knowledge, provided, however, that the agency shall limit disclosure to
33 confirmation of procedural details relating to the handling of the case by
34 professionals.

35 (e) *Court order*. Notwithstanding the provisions of this section, a
36 court of competent jurisdiction, after in camera inspection, may order
37 disclosure of confidential agency records pursuant to a determination that
38 the disclosure is in the best interests of the child who is the subject of the
39 reports or that the records are necessary for the proceedings of the court.
40 The court shall specify the terms of disclosure and impose appropriate
41 limitations.

42 (f) (1) Notwithstanding any other provision of law to the contrary,
43 except as provided in paragraph (6), in the event that child abuse or

1 neglect results in a child fatality or near fatality, reports or records of a
2 child alleged or adjudicated to be in need of care received by the secretary,
3 a law enforcement agency or any juvenile intake and assessment worker
4 shall become a public record and subject to disclosure pursuant to K.S.A.
5 45-215, and amendments thereto.

6 (2) Within seven days of receipt of a request in accordance with the
7 procedures adopted under K.S.A. 45-220, and amendments thereto, the
8 secretary shall notify any affected individual that an open records request
9 has been made concerning such records. The secretary or any affected
10 individual may file a motion requesting the court to prevent disclosure of
11 such record or report, or any select portion thereof. Notice of the filing of
12 such motion shall be provided to all parties requesting the records or
13 reports, and such party or parties shall have a right to hearing, upon
14 request, prior to the entry of any order on such motion. If the affected
15 individual does not file such motion within seven days of notification, and
16 the secretary has not filed a motion, the secretary shall release the reports
17 or records. If such motion is filed, the court shall consider the effect such
18 disclosure may have upon an ongoing criminal investigation, a pending
19 prosecution, or the privacy of the child, if living, or the child's siblings,
20 parents or guardians, and the public's interest in the disclosure of such
21 records or reports. The court shall make written findings on the record
22 justifying the closing of the records and shall provide a copy of the journal
23 entry to the affected parties and the individual requesting disclosure
24 pursuant to the Kansas open records act, K.S.A. 45-215 et seq., and
25 amendments thereto.

26 (3) Notwithstanding the provisions of paragraph (2), in the event that
27 child abuse or neglect results in a child fatality, the secretary shall release
28 the following information in response to an open records request made
29 pursuant to the Kansas open records act, within seven business days of
30 receipt of such request, as allowed by applicable law:

- 31 (A) Age and sex of the child;
- 32 (B) date of the fatality;
- 33 (C) a summary of any previous reports of abuse or neglect received
34 by the secretary involving the child, along with the findings of such
35 reports; and
- 36 (D) any department recommended services provided to the child.

37 (4) Notwithstanding the provisions of paragraph (2), in the event that
38 a child fatality occurs while such child was in the custody of the secretary
39 for children and families, the secretary shall release the following
40 information in response to an open records request made pursuant to the
41 Kansas open records act, within seven business days of receipt of such
42 request, as allowed by applicable law:

- 43 (A) Age and sex of the child;

1 (B) date of the fatality; and

2 (C) a summary of the facts surrounding the death of the child.

3 (5) For reports or records requested pursuant to this subsection, the
4 time limitations specified in this subsection shall control to the extent of
5 any inconsistency between this subsection and K.S.A. 45-218, and
6 amendments thereto. As used in this section, "near fatality" means an act
7 that, as certified by a person licensed to practice medicine and surgery,
8 places the child in serious or critical condition.

9 (6) Nothing in this subsection shall allow the disclosure of reports,
10 records or documents concerning the child and such child's biological
11 parents that were created prior to such child's adoption. Nothing herein is
12 intended to require that an otherwise privileged communication lose its
13 privileged character.

14 Sec. 9. K.S.A. 2020 Supp. 38-2213 is hereby amended to read as
15 follows: 38-2213. (a) *Principle of limited disclosure.* Information
16 contained in confidential law enforcement records concerning a child
17 alleged or adjudicated to be in need of care may be disclosed as provided
18 in this section. Disclosure shall in all cases be guided by the principle of
19 providing access only to persons or entities with a need for information
20 that is directly related to achieving the purposes of this code.

21 (b) *Free exchange of information.* Pursuant to K.S.A. 2020 Supp. 38-
22 2210, and amendments thereto, a law enforcement agency shall participate
23 in the free exchange of information concerning a child who is alleged or
24 adjudicated to be in need of care.

25 (c) *Access to information in law enforcement records.* In order to
26 discharge their official duties, the following persons or entities shall have
27 access to confidential law enforcement records concerning a child alleged
28 or adjudicated to be in need of care.

29 (1) The court having jurisdiction over the proceedings, including the
30 presiding judge and any court personnel designated by the judge.

31 (2) The secretary.

32 (3) The ~~commissioner of juvenile justice~~ *secretary of corrections.*

33 (4) Law enforcement officers or county or district attorneys or their
34 staff.

35 (5) Any juvenile intake and assessment worker.

36 (6) Members of a court-appointed multidisciplinary team.

37 (7) *The office of the child advocate pursuant to the child advocate*
38 *act.*

39 (8) Any other federal, state or local government executive branch
40 entity, or any agent of such entity, having a need for such information in
41 order to carry out such entity's responsibilities under law to protect
42 children from abuse and neglect.

43 (8)(9) Persons or entities allowed access pursuant to ~~subsection (f)~~ of

1 K.S.A. 2020 Supp. 38-2212(f), and amendments thereto.

2 (d) *Necessary access.* The following persons or entities shall have
3 access to information from law enforcement records when reasonably
4 necessary to carry out their lawful responsibilities, to maintain their
5 personal safety and the personal safety of individuals in their care, or to
6 educate, diagnose, treat, care for or protect a child alleged or adjudicated
7 to be in need of care. Information authorized to be disclosed in this
8 subsection shall not contain information ~~which~~ *that* identifies a reporter of
9 a child alleged or adjudicated to be a child in need of care.

10 (1) Any individual, or public or private agency authorized by a
11 properly constituted authority to diagnose, care for, treat or supervise a
12 child who is the subject of a report or record of child abuse or neglect,
13 including physicians, psychiatrists, nurses, nurse practitioners,
14 psychologists, licensed social workers, child development specialists,
15 physician assistants, community mental health workers, alcohol and drug
16 abuse counselors, and licensed or registered child care providers.

17 (2) School administrators shall have access to but shall not copy law
18 enforcement records and may disclose information to teachers,
19 paraprofessionals and other school personnel as necessary to meet the
20 educational needs of the child or to protect the safety of students and
21 school employees.

22 (3) The department of health and environment or persons authorized
23 by the department of health and environment pursuant to K.S.A. 65-512,
24 and amendments thereto, for the purposes of carrying out responsibilities
25 relating to licensure or registration of child care providers as required by
26 article 5 of chapter 65 of the Kansas Statutes Annotated, and amendments
27 thereto.

28 (e) *Legislative access.* Information from law enforcement records of a
29 child alleged or adjudicated to be in need of care shall be available to
30 members of the standing house or senate committee on judiciary, house
31 committee on corrections and juvenile justice, house committee on
32 appropriations, senate committee on ways and means, legislative post audit
33 committee and any joint committee with authority to consider children's
34 and families' issues, when carrying out such member's or committee's
35 official functions in accordance with K.S.A. 75-4319, and amendments
36 thereto, in a closed or executive meeting. Except in limited conditions
37 established by $\frac{2}{3}$ of the members of such committee, records and reports
38 received by the committee shall not be further disclosed. Unauthorized
39 disclosure may subject such member to discipline or censure from the
40 house of representatives or senate.

41 (f) *Court order.* Notwithstanding the provisions of this section, a
42 court of competent jurisdiction, after in camera inspection, may order
43 disclosure of confidential law enforcement records pursuant to a

1 determination that the disclosure is in the best interests of the child who is
2 the subject of the reports or that the records are necessary for the
3 proceedings of the court and otherwise admissible as evidence. The court
4 shall specify the terms of disclosure and impose appropriate limitations.

5 Sec. 10. K.S.A. 2020 Supp. 38-2309 is hereby amended to read as
6 follows: 38-2309. (a) *Official file*. The official file of proceedings pursuant
7 to this code shall consist of the complaint, process, service of process,
8 orders, writs and journal entries reflecting hearings held, judgments and
9 decrees entered by the court. The official file shall be kept separate from
10 other records of the court.

11 (b) The official file shall be open for public inspection, unless the
12 judge determines that opening the official file for public inspection is not
13 in the best interests of a juvenile who is less than 14 years of age.
14 Information identifying victims and alleged victims of sex offenses, as
15 defined in article 35 of chapter 21 of the Kansas Statutes Annotated, prior
16 to their repeal, or article 55 of chapter 21 of the Kansas Statutes
17 Annotated, or K.S.A. 2020 Supp. 21-6419 through 21-6422, and
18 amendments thereto, or human trafficking or aggravated human
19 trafficking, as defined in K.S.A. 21-3446 or 21-3447, prior to their repeal,
20 or K.S.A. 2020 Supp. 21-5426, and amendments thereto, shall not be
21 disclosed or open to public inspection under any circumstances. Nothing in
22 this section shall prohibit the victim or alleged victim of any sex offense
23 from voluntarily disclosing such victim's identity. An official file closed
24 pursuant to this section and information identifying the victim or alleged
25 victim of any sex offense shall be disclosed only to the following:

26 (1) A judge of the district court and members of the staff of the court
27 designated by the judge;

28 (2) parties to the proceedings and their attorneys;

29 (3) any individual or any public or private agency or institution: (A)
30 Having custody of the juvenile under court order; or (B) providing
31 educational, medical or mental health services to the juvenile;

32 (4) the juvenile's court appointed special advocate;

33 (5) any placement provider or potential placement provider as
34 determined by the commissioner or court services officer;

35 (6) law enforcement officers or county or district attorneys, or their
36 staff, when necessary for the discharge of their official duties;

37 (7) the Kansas racing commission, upon written request of the
38 commission chairperson, for the purpose provided by K.S.A. 74-8804, and
39 amendments thereto, except that information identifying the victim or
40 alleged victim of any sex offense shall not be disclosed pursuant to this
41 subsection;

42 (8) juvenile intake and assessment workers;

43 (9) ~~the commissioner~~ *secretary of corrections*;

- 1 (10) *the office of the child advocate pursuant to the child advocate*
 2 *act;*
 3 (11) any other person when authorized by a court order, subject to any
 4 conditions imposed by the order; and
 5 ~~(H)~~(12) the commission on judicial performance in the discharge of
 6 the commission's duties pursuant to article 32 of chapter 20 of the Kansas
 7 Statutes Annotated, and amendments thereto.
 8 (c) *Social file.* (1) Reports and information received by the court,
 9 other than the official file, shall be privileged and open to inspection only
 10 by the following:
 11 (A) Attorneys for the parties;;
 12 (B) juvenile intake and assessment workers;;
 13 (C) court appointed special advocates;;
 14 (D) juvenile community corrections officers;;
 15 (E) the juvenile's guardian ad litem, if any;;
 16 (F) *the office of the child advocate pursuant to the child advocate*
 17 *act; or ~~upon~~*
 18 (G) *any other person when authorized by the order of a judge of the*
 19 *district court or appellate court.*
 20 (2) The reports shall not be further disclosed without approval of the
 21 court or by being presented as admissible evidence.
 22 (d) *Preservation of records.* The Kansas state historical society shall
 23 be allowed to take possession for preservation in the state archives of any
 24 court records related to proceedings under the Kansas juvenile justice code
 25 or the revised Kansas juvenile justice code whenever such records
 26 otherwise would be destroyed. The Kansas state historical society shall
 27 make available for public inspection any unexpunged docket entry or
 28 official file in its custody concerning any juvenile 14 or more years of age
 29 at the time an offense is alleged to have been committed by the juvenile.
 30 No other such records in the custody of the Kansas state historical society
 31 shall be disclosed directly or indirectly to anyone for 70 years after
 32 creation of the records, except as provided in subsections (b) and (c). A
 33 judge of the district court may allow inspection for research purposes of
 34 any court records in the custody of the Kansas state historical society
 35 related to proceedings under the Kansas juvenile justice code or the
 36 revised Kansas juvenile justice code.
 37 (e) Relevant information, reports and records, shall be made available
 38 to the department of corrections upon request, and a showing that the
 39 former juvenile has been convicted of a crime and placed in the custody of
 40 the secretary of corrections.
 41 Sec. 11. K.S.A. 2020 Supp. 38-2310 is hereby amended to read as
 42 follows: 38-2310. (a) All records of law enforcement officers and agencies
 43 and municipal courts concerning an offense committed or alleged to have

1 been committed by a juvenile under 14 years of age shall be kept readily
 2 distinguishable from criminal and other records and shall not be disclosed
 3 to anyone except:

4 (1) The judge of the district court and members of the staff of the
 5 court designated by the judge;

6 (2) parties to the proceedings and their attorneys;

7 (3) the Kansas department for children and families;

8 (4) the juvenile's court appointed special advocate, any officer of a
 9 public or private agency or institution or any individual having custody of
 10 a juvenile under court order or providing educational, medical or mental
 11 health services to a juvenile;

12 (5) any educational institution, to the extent necessary to enable the
 13 educational institution to provide the safest possible environment for its
 14 pupils and employees;

15 (6) any educator, to the extent necessary to enable the educator to
 16 protect the personal safety of the educator and the educator's pupils;

17 (7) law enforcement officers or county or district attorneys, or their
 18 staff, when necessary for the discharge of their official duties;

19 (8) the central repository, as defined by K.S.A. 22-4701, and
 20 amendments thereto, for use only as a part of the juvenile offender
 21 information system established under K.S.A. 2020 Supp. 38-2326, and
 22 amendments thereto;

23 (9) juvenile intake and assessment workers;

24 (10) the department of corrections;

25 (11) juvenile community corrections officers;

26 (12) the interstate compact for juveniles compact administrator for
 27 the purpose of carrying out the responsibilities related to the interstate
 28 compact for juveniles;

29 (13) *the office of the child advocate pursuant to the child advocate*
 30 *act*;

31 (14) any other person when authorized by a court order, subject to
 32 any conditions imposed by the order; and

33 ~~(14)~~(15) as provided in subsection (c).

34 (b) The provisions of this section shall not apply to records
 35 concerning:

36 (1) A violation, by a person 14 or more years of age, of any provision
 37 of chapter 8 of the Kansas Statutes Annotated, and amendments thereto, or
 38 of any city ordinance or county resolution ~~which~~ *that* relates to the
 39 regulation of traffic on the roads, highways or streets or the operation of
 40 self-propelled or nonself-propelled vehicles of any kind;

41 (2) a violation, by a person 16 or more years of age, of any provision
 42 of chapter 32 of the Kansas Statutes Annotated, and amendments thereto;
 43 or

1 (3) an offense for which the juvenile is prosecuted as an adult.

2 (c) All records of law enforcement officers and agencies and
3 municipal courts concerning an offense committed or alleged to have been
4 committed by a juvenile 14 or more years of age shall be subject to the
5 same disclosure restrictions as the records of adults. Information
6 identifying victims and alleged victims of sex offenses, as defined in
7 article 35 of chapter 21 of the Kansas Statutes Annotated, prior to their
8 repeal, or article 55 of chapter 21 of the Kansas Statutes Annotated, and
9 amendments thereto, K.S.A. 2020 Supp. 21-6419 through 21-6422, and
10 amendments thereto, or human trafficking or aggravated human
11 trafficking, as defined in K.S.A. 21-3446 or 21-3447, prior to their repeal,
12 or K.S.A. 2020 Supp. 21-5426, and amendments thereto, shall not be
13 disclosed or open to public inspection under any circumstances. Nothing in
14 this section shall prohibit the victim or any alleged victim of any sex
15 offense from voluntarily disclosing such victim's identity.

16 (d) Relevant information, reports and records, shall be made available
17 to the department of corrections upon request and a showing that the
18 former juvenile has been convicted of a crime and placed in the custody of
19 the secretary of corrections.

20 (e) All records, reports and information obtained as a part of the
21 juvenile intake and assessment process for juveniles shall be confidential,
22 and shall not be disclosed except as provided by statutory law and rules
23 and regulations promulgated by the secretary.

24 (1) Any court of record may order the disclosure of such records,
25 reports and other information to any person or entity.

26 (2) The head of any juvenile intake and assessment program, certified
27 by the secretary, may authorize disclosure of such records, reports and
28 other information to:

29 (A) A person licensed to practice the healing arts who has before that
30 person a juvenile whom the person reasonably suspects may be abused or
31 neglected;

32 (B) ~~a court-appointed~~ *court appointed* special advocate for a juvenile
33 or an agency having the legal responsibility or authorization to care for,
34 treat or supervise a juvenile;

35 (C) a parent or other person responsible for the welfare of a juvenile,
36 or such person's legal representative, with protection for the identity of
37 persons reporting and other appropriate persons;

38 (D) the juvenile, the attorney and a guardian ad litem, if any, for such
39 juvenile;

40 (E) the police or other law enforcement agency;

41 (F) an agency charged with the responsibility of preventing or
42 treating physical, mental or emotional abuse or neglect or sexual abuse of
43 children, if the agency requesting the information has standards of

1 confidentiality as strict or stricter than the requirements of the Kansas code
2 for care of children or the revised Kansas juvenile justice code, whichever
3 is applicable;

4 (G) members of a multidisciplinary team under this code;

5 (H) an agency authorized by a properly constituted authority to
6 diagnose, care for, treat or supervise a child who is the subject of a report
7 or record of child abuse or neglect;

8 (I) any individual, or public or private agency authorized by a
9 properly constituted authority to diagnose, care for, treat or supervise a
10 juvenile who is the subject of a report or record of child abuse or neglect,
11 specifically including the following: Physicians, psychiatrists, nurses,
12 nurse practitioners, psychologists, licensed social workers, child
13 development specialists, physician assistants, community mental health
14 workers, addiction counselors and licensed or registered child care
15 providers;

16 (J) a citizen review board pursuant to K.S.A. 2020 Supp. 38-2207,
17 and amendments thereto;

18 (K) an educational institution to the extent necessary to enable such
19 institution to provide the safest possible environment for pupils and
20 employees of the institution;

21 (L) any educator to the extent necessary for the protection of the
22 educator and pupils;

23 (M) any juvenile intake and assessment worker of another certified
24 juvenile intake and assessment program; ~~and~~

25 (N) the interstate compact for juveniles compact administrator for the
26 purpose of carrying out the responsibilities related to the interstate
27 compact for juveniles; *and*

28 (O) *the office of the child advocate pursuant to the child advocate*
29 *act.*

30 Sec. 12. K.S.A. 2020 Supp. 38-2211, 38-2212, 38-2213, 38-2309 and
31 38-2310 are hereby repealed.

32 Sec. 13. This act shall take effect and be in force from and after its
33 publication in the statute book.