

As Amended by House Committee

Session of 2023

HOUSE BILL No. 2443

By Committee on Appropriations

2-23

1 AN ACT concerning children and minors; establishing the office of the
2 child advocate as an independent state agency and the child advocate
3 advisory board; prescribing certain powers, duties and functions
4 thereof; allowing disclosure of confidential records to the child
5 advocate; amending K.S.A. 38-2213, 38-2309 and 38-2310 and K.S.A.
6 2022 Supp. 38-2211 and 38-2212.

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

9 New Section 1. (a) As used in sections 1 through 8, and amendments
10 thereto:

11 (1) "Child" means any individual under 18 years of age who:

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

13 (B) may be alleged to be a child in need of care as provided in K.S.A.
14 38-2201 et seq., and amendments thereto;

15 (C) is alleged to be a child in need of care as provided in K.S.A. 38-
16 2201 et seq.; or

17 (D) is currently or was receiving services or treatment from the
18 department of corrections; and

19 (2) "office" means the office of the child advocate that includes the
20 child advocate and staff.

21 New Sec. 2. (a) There is hereby established the office of the child
22 advocate, the head of which shall be the child advocate. In the
23 performance of the powers, duties and functions prescribed by law, the
24 office shall be an independent state agency. The child advocate shall be
25 appointed pursuant to section 5, and amendments thereto.

26 (b) The purpose of the office is to ensure that children and families
27 receive adequate coordination of child welfare services, child maltreatment
28 prevention, protection and care through services offered by the Kansas
29 department for children and families or the department's contracting
30 entities, the Kansas department for aging and disability services, the
31 department of corrections, the department of health and environment and
32 juvenile courts.

33 (c) The child advocate shall receive, investigate and attempt to
34 resolve complaints from any persons involved with the child welfare
35 system alleging that the Kansas department for children and families or the
36 department's contracting entities, the department of corrections, the

1 judicial branch or another child welfare stakeholder has provided
2 inadequate protection or care of children and assist the state of Kansas in
3 conducting oversight of the child welfare system to improve the safety and
4 wellbeing of children.

5 (d) The child advocate shall perform the duties required by sections 1
6 through 8, and amendments thereto, independently from state agencies and
7 other entities under review by the office and report directly to the office of
8 the child advocate advisory board.

9 New Sec. 3. (a) There is hereby established an independent and
10 nonpartisan child advocate advisory board.

11 (b) The board has the following duties and responsibilities in
12 overseeing the office of the child advocate:

13 (1) On or before December 1, 2023, appoint the child advocate, and
14 as necessary thereafter pursuant to section 5, and amendments thereto;

15 (2) for good cause and subject to a $2/3$ vote of the board, terminate the
16 child advocate;

17 (3) fill any vacancy of the child advocate;

18 (4) evaluate the child advocate's performance and receive feedback
19 on the child advocate's performance;

20 (5) develop a public complaint process related to the child advocate's
21 performance;

22 (6) oversee and advise the child advocate on the office's purpose;

23 (7) promote and ensure access to the office;

24 (8) provide fiscal oversight of the office's budget; and

25 (9) ensure compliance with the provisions of sections 1 through 8,
26 and amendments thereto, and any state or federal laws relating to child
27 welfare.

28 (c) Membership of the board shall not exceed ~~12~~ **11** members and to
29 the extent practicable, include individuals from across the state, with
30 different abilities and ethnic diversity. All members shall have child
31 welfare policy or system expertise or experience.

32 (d) The board members shall be appointed before August 1, 2023, as
33 follows:

34 (1) The chief justice of the Kansas supreme court shall appoint:

35 (A) An individual with experience as a respondent parents' counsel;

36 **and**

37 ~~(B) an individual with experience defending juveniles in court~~
38 ~~proceedings;~~

39 ~~(C) an individual with legal experience in child in need of care cases~~
40 ~~or who served as a guardian ad litem; and~~

41 ~~(D) an individual with experience in juvenile justice;~~

42 (2) the governor shall appoint:

43 (A) An individual with previous professional experience with a social

1 service agency in a rural area;

2 ~~(B) an individual with previous professional experience with the~~
3 ~~Kansas department for children and families;~~

4 ~~(C) an individual with previous professional experience with a social~~
5 ~~service agency in an urban area; and~~

6 ~~(D) an individual with professional experience in primary or~~
7 ~~secondary education~~**(C) an individual with professional experience**
8 **providing mental health services to a child in need of care;**

9 (3) the president and minority leader of the Senate shall appoint:

10 (A) An individual who was a child in need of care; ~~and~~

11 ~~(B) an individual with professional experience providing mental~~
12 ~~health services to a child in need of care~~**an individual who is a biological**
13 **parent to a child in need of care; and**

14 **(C) a member at-large; and**

15 (4) the speaker and the minority leader of the House of
16 Representatives shall appoint:

17 (A) A current or former foster parent; ~~and~~

18 ~~(B) a healthcare professional with previous experience with child~~
19 ~~abuse and neglect cases~~**an individual who has adopted a child through a**
20 **Kansas court; and**

21 **(C) a member at-large.**

22 (e) Board members shall serve for a term of four years, except that
23 two members first appointed by the chief justice and the governor and one
24 member appointed by the president and minority leader of the senate and
25 the speaker and the minority leader of the house of representatives shall
26 serve a term of two years determined by the appointing authority.

27 **(f) The board may suspend or remove any member of the board**
28 **for failure to perform such member's duties by majority vote of the**
29 **board. Any vacancy created by such removal shall be filled in the**
30 **same manner as the original appointment.**

31 **(g)** Whenever a vacancy occurs, such vacancy shall be filled in the
32 same manner as the vacated appointment.

33 ~~(g)~~**(h) (1)** The board shall meet twice a year and may meet
34 additionally as needed. At least one meeting per year shall not be held in
35 the Topeka metropolitan area.

36 **(2) At the board's initial meeting and annually at the board's first**
37 **meeting subsequent to July 1, the board shall elect a chairperson, vice**
38 **chairperson and other officers as the board deems appropriate from**
39 **the board's membership.**

40 ~~(h)~~**(i)** Members of the board shall serve without compensation, but
41 may be reimbursed for actual and reasonable expenses incurred in the
42 performance of the board member's duties. Such expenses shall be paid by
43 the office of the child advocate from the office of the child advocate fund.

1 ~~(j)~~(j) The board shall be subject to the provisions of the open
2 meetings act, except to discuss personnel matters of non-elected personnel
3 and to discuss matters relating to the care of children pursuant to K.S.A.
4 38-2212 or 38-2213, and amendments thereto, and the federal child abuse
5 prevention and treatment act.

6 ~~(k)~~(k) The records of the board shall be subject to the provisions of
7 the open records act, except records pursuant to K.S.A. 45-221, and
8 amendments thereto.

9 New Sec. 4. (a) To fulfill the purpose of the office pursuant to section
10 2, and amendments thereto, the child advocate shall:

11 (1) Independently and impartially investigate complaints submitted to
12 the office. The child advocate may seek resolution of the complaint, which
13 may include, but not be limited to, referring a complaint to a state agency
14 or other entity for action;

15 (2) address complaints made by or on behalf of a child that relate to
16 state agencies, service providers, including contractors, subcontractors and
17 any juvenile court, that may adversely affect the health, safety, welfare,
18 permanency or wellbeing of such child;

19 (3) establish a procedure for receiving, processing, responding to and
20 resolving such complaints;

21 (4) ensure confidentiality of all complaints, including the identity of a
22 complainant or reporter, unless disclosure is deemed necessary for the
23 child advocate to perform the child advocate's duties, with consent from
24 such complainant or reporter;

25 (5) receive and exchange records as provided in K.S.A. 38-2201 et
26 seq. and 38-2301 et seq., and amendments thereto, to make inquiries and
27 review relevant information and records that the office deems necessary
28 for investigations;

29 (6) compile, collect and preserve a record of complaints received and
30 processed that may reveal concerning patterns to be addressed;

31 (7) submit any findings and recommendations to the Kansas
32 department for children and families and recommend changes to policies
33 and procedures to improve the delivery of child welfare services;

34 (8) recommend changes to policies, procedures or adopted or
35 proposed rules and regulations of any state or local agency that adversely
36 affect or may adversely affect the health, safety, welfare, permanency or
37 wellbeing of any child;

38 (9) analyze and monitor the development and implementation of
39 federal, state and local laws, rules and regulations and policies with respect
40 to child welfare services in the state and recommend changes in such laws,
41 rules and regulations and polices to the Kansas department for children
42 and families or the department's contracting entities, the Kansas
43 department for aging and disability services, the department of health and

1 environment, the department of corrections, juvenile courts, the legislature
2 and the governor;

3 (10) inform and educate children, their guardians and families of the
4 child's rights and entitlements pursuant to state and federal laws; and

5 (11) fulfill responsibilities in this section guided by generally
6 accepted principles of best practices in child welfare.

7 (b) To fulfill the purpose of the office pursuant to section 2, and
8 amendments thereto, the child advocate may:

9 (1) Access records as provided in K.S.A. 38-2201 et seq. and 38-2301
10 et seq., and amendments thereto, related to complaints received;

11 (2) access all written reports of child abuse and neglect maintained by
12 the secretary for children and families related to complaints received;

13 (3) communicate privately with any child or child's siblings, after
14 consultation with treatment professionals and service providers, and with
15 anyone working with the child, including the family, relatives, employees
16 of the Kansas department for children and families or the department's
17 contracting entities, Kansas department for aging and disability services,
18 juvenile courts and other persons or entities providing treatment and child
19 welfare services to such child;

20 (4) work in conjunction with guardians ad litem;

21 (5) file any of the office's findings or reports regarding a parent or
22 child with the appropriate court with jurisdiction over a child in need of
23 care case involving such child, and issue recommendations regarding the
24 disposition of an investigation to the court and to the investigating agency,
25 but shall not intervene in divorce, protection from abuse, juvenile offender,
26 child in need of care, administrative hearings, civil or criminal
27 proceedings;

28 (6) file amicus curiae briefs of the findings and recommendations of
29 the office in appeals from child in need of care matters;

30 (7) utilize the resources of the office of the attorney general, as
31 necessary, to carry out any duties of the child advocate and receive legal
32 counsel or services;

33 (8) initiate meetings with personnel from the Kansas department for
34 children and families or the department's contracting entities, Kansas
35 department for aging and disability services and juvenile courts;

36 (9) apply for and accept grants, gifts and bequests of moneys from
37 other state, interstate or federal agencies, independent authorities, private
38 firms, individuals or foundations to carry out the child advocate's duties
39 and responsibilities, and such moneys shall be deposited in the office of
40 the child advocate fund and shall be expended in accordance with the
41 provisions of the grant or bequest;

42 (10) establish local panels on a regional or county basis to adequately
43 and efficiently carry out the functions and duties of the office and address

1 complaints in a timely manner as appropriate; and

2 (11) conduct an independent review of any policy, procedure or
3 practice that is the subject of a complaint submitted as provided in this
4 section.

5 (c) Nothing in this section shall create a just cause for delay of court
6 proceedings or excuse any court, county attorney or district attorney,
7 guardian ad litem or other agency from their duties in proceedings related
8 to a child.

9 (d) No review of any complaint shall require any licensed
10 professional to engage or not engage in conduct required or prohibited by
11 any governing professional code of responsibility or conduct.

12 **(e) The filing of a complaint to the office shall not establish any**
13 **relationship between the child advocate or an employee of the office**
14 **and a complainant or any other party involved in the complaint. There**
15 **is no privilege as to any communication between the child advocate or**
16 **an employee of the office and a complainant or any other party**
17 **involved in the complaint.**

18 New Sec. 5. (a) The office shall be administered by the child
19 advocate, who shall be appointed by the child advocate advisory board and
20 subject to confirmation by the senate as provided in K.S.A. 75-4315b, and
21 amendments thereto, for a term of four years. The first child advocate shall
22 be appointed and confirmed on or before January 1, 2024, and on or before
23 January 1 every four years thereafter.

24 (b) **(1)** The child advocate shall be a person that ~~either:~~

25 **(A)** Holds a current relevant license that would authorize the
26 individual to work as a licensed professional as a case manager, behavioral
27 health professional or attorney for a child in need of care ~~or;~~

28 **(B)** has seven or more years of experience in the field of child
29 welfare; **or**

30 **(C) has demonstrated extensive experience in the practice of child**
31 **welfare in the field.**

32 **(2)** The child advocate shall not be a current, or have been employed
33 within the past 12 months as an executive or manager of any program or
34 agency or contracting agency subject to oversight by the office.

35 (c) The office of the child advocate shall be under the direct
36 supervision of the child advocate.

37 (d) The child advocate may appoint employees as the office may
38 require to fulfill the office's duties. Employees in the office shall be in the
39 unclassified service and serve at the pleasure of the child advocate. The
40 child advocate shall fix the compensation of each such employee subject to
41 appropriations therefor.

42 (e) Any employee of the office shall be immune from suit and
43 liability, in an official capacity and personally, for the good faith

1 performance of duties prescribed in sections 1 through 8, and amendments
2 thereto.

3 New Sec. 6. (a) On or before the first day of the regular legislative
4 session in 2024, and each year thereafter, the child advocate shall submit
5 an annual report to the governor, the house of representatives standing
6 committee on child welfare and foster care, the senate standing committee
7 on public health and welfare, or any successor committees thereof, the
8 joint committee on child welfare system oversight and the office of
9 judicial administration.

10 (b) Such report shall include, but not be limited to, the number of
11 complaints received by the office, the disposition of such complaints, the
12 number of children involved in such complaints, the state agencies or other
13 entities named in such complaints, whether such complaints were found to
14 be supported or unsupported and any recommendations for improving the
15 delivery of child welfare services to reduce complaints or improving the
16 function of the office and recommendations for changes in Kansas law.

17 (c) Such reports shall not include names or personally identifiable
18 information of children, guardians or families in complaints.

19 (d) Such reports are not subject to change by the the house of
20 representatives standing committee on child welfare and foster care, the
21 senate standing committee on public health and welfare, or any successor
22 committees thereof, or the joint committee on child welfare system
23 oversight except that any such committee may request additional
24 information not subject to subsection (f) that was gathered as part of the
25 report but was not presented in the written report may be added to
26 subsequent copies of the report or may be distributed separately.

27 (e) Annual reports submitted as provided in this section shall not be
28 disclosed pursuant to the provisions of the open records act or any other
29 law until:

30 (1) The time of the next scheduled meeting of either the house of
31 representatives standing committee on child welfare and foster care or the
32 senate standing committee on public health and welfare, or any successor
33 committees thereof, held after distribution of the report to members of
34 such committee; or

35 (2) the time of the next scheduled meeting of another legislative
36 committee held after distribution of the report to the members of such
37 committee as authorized by the house of representatives standing
38 committee on child welfare and foster care or the senate standing
39 committee on public health and welfare, or any successor committees
40 thereof.

41 (f) The provisions of this subsection providing for confidentiality of
42 records shall expire on July 1, 2028, unless the legislature reviews and acts
43 to continue such provisions pursuant to K.S.A. 45-229, and amendments

1 thereto, prior to July 1, 2028.

2 (g) For any information or records obtained from a state agency or
3 other entity pursuant to sections 1 through 8, and amendments thereto, the
4 office shall be subject to K.S.A. 38-2201 et seq. and 38-2301 et seq., and
5 amendments thereto, and any federal statutory disclosure restrictions and
6 confidentiality requirements that are applicable to the state agency or other
7 entity providing such information to the office. Information or records
8 obtained shall not be further disclosed.

9 New Sec. 7. (a) The reports, statements, witness testimony, affidavits,
10 memoranda, proceedings, findings and other records or data submitted to,
11 considered by or generated by the office of the child advocate, whether
12 oral or written, shall be privileged and shall not be disclosed to any person
13 or entity, be admissible in any civil action, administrative proceeding or
14 disciplinary board of this state, be subject to discovery, subpoena or other
15 means of legal compulsion for their release to any person or entity or be
16 admissible in evidence in any judicial or administrative proceeding, unless
17 the child advocate is already a party to such proceedings. Information
18 contained in such records shall not be discoverable or admissible at trial in
19 the form of testimony by the child advocate, an individual who is an
20 employee of the office of the child advocate or individual acting on behalf
21 of the child advocate, unless such individual is already a party to such
22 proceedings.

23 (b) The child advocate, any employee of the office of the child
24 advocate or person acting on behalf of the child advocate shall be immune
25 from civil liability, either personally or in their official capacity, including,
26 but not limited to, claims of damage to or loss of property or personal
27 injury that are caused by or arising out of the performance of duties of the
28 office. This subsection shall not be construed to protect from suit or
29 liability when caused by the intentional or willful or wanton misconduct of
30 such persons.

31 (c) (1) No person shall take reprisal or retaliatory action against any
32 recipient of child welfare services or employee of the Kansas department
33 for children and families and the department's contracting entities, the
34 Kansas department for aging and disability services, the department of
35 corrections, the department of health and environment and juvenile courts
36 for any communication made or information given to the office for the
37 purpose of compliance with sections 1 through 8, and amendments thereto.
38 Any person who knowingly violates the provisions of this paragraph shall
39 be guilty of a class A nonperson misdemeanor.

40 (2) No employee of the office of the child advocate shall:

41 (A) Knowingly disclose false information; or

42 (B) disclose confidential information without lawful authority.

43 (3) Disclosure or use of any such information received by the office

1 of the child advocate or of any record containing such information, for any
2 purpose other than that provided for in law shall constitute grounds for
3 removal from office or termination of employment.

4 (d) As used in this section, "reprisal or retaliatory action" shall
5 include, but not be limited to:

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

14 New Sec. 8. (a) The annual budget request of the office shall be
15 prepared by the child advocate and presented to the child advocate
16 advisory board. Upon approval by the child advocate advisory board, the
17 child advocate shall submit such budget request to the director of the
18 budget as other budget requests are submitted pursuant K.S.A. 75-3717,
19 and amendments thereto.

20 (b) There is established in the state treasury the office of the child
21 advocate fund. Such fund shall be administered by the child advocate. All
22 expenditures from appropriations to the office shall be made upon warrants
23 of the director of accounts and reports issued pursuant to vouchers
24 approved by the child advocate or the child advocate's designee. All
25 moneys received by or for the child advocate shall be deposited in the state
26 treasury in accordance with the provisions of K.S.A. 75-4215, and
27 amendments thereto.

28 Sec. 9. K.S.A. 2022 Supp. 38-2211 is hereby amended to read as
29 follows: 38-2211. (a) *Access to the official file*. The following persons or
30 entities shall have access to the official file of a child in need of care
31 proceeding pursuant to this code:

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

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

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

37 (4) ~~A court-appointed~~ *court-appointed* special advocate for a child
38 who is the subject of the proceeding or a paid staff member of a court
39 appointed special advocate program.

40 (5) Any individual, or any public or private agency or institution,
41 having custody of the child under court order or providing educational,
42 medical or mental health services to the child or any placement provider or
43 potential placement provider as determined by the secretary or court

1 services officer.

2 (6) A citizen review board.

3 (7) The secretary of corrections or any agents designated by the
4 secretary of corrections.

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

7 (9) Any other person when authorized by a court order, subject to any
8 conditions imposed by the order.

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

12 (11) An investigating law enforcement agency.

13 (12) *The office of the child advocate.*

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

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

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

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

23 (4) ~~A court appointed~~ *court-appointed* special advocate for a child
24 who is the subject of the proceeding or a paid staff member of a court
25 appointed special advocate program.

26 (5) A citizen review board.

27 (6) The secretary.

28 (7) The secretary of corrections or any agents designated by the
29 secretary of corrections.

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

33 (9) Any other person when authorized by a court order, subject to any
34 conditions imposed by the order.

35 (10) An investigating law enforcement agency.

36 (11) *The office of the child advocate.*

37 (c) *Preservation of records.* The Kansas state historical society shall
38 be allowed to take possession for preservation in the state archives of any
39 court records related to proceedings under the Kansas code for care of
40 children whenever such records otherwise would be destroyed. No such
41 records in the custody of the Kansas state historical society shall be
42 disclosed directly or indirectly to anyone for 70 years after creation of the
43 records, except as provided in subsections (a) and (b). Pursuant to

1 subsections ~~(a)(9)~~ (a)(10) and ~~(b)(9)~~ (b)(10), a judge of the district court
2 may allow inspection for research purposes of any court records in the
3 custody of the Kansas state historical society related to proceedings under
4 the Kansas code for care of children.

5 Sec. 10. K.S.A. 2022 Supp. 38-2212 is hereby amended to read as
6 follows: 38-2212. (a) *Principle of appropriate access.* Information
7 contained in confidential agency records concerning a child alleged or
8 adjudicated to be in need of care may be disclosed as provided in this
9 section and shall be disclosed as provided in subsection (e). Disclosure
10 shall in all cases be guided by the principle of providing access only to
11 persons or entities with a need for information that is directly related to
12 achieving the purposes of this code.

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

17 (c) *Necessary access.* The following persons or entities shall have
18 access to information from agency records. Access shall be limited to
19 information reasonably necessary to carry out their lawful responsibilities,
20 to maintain their personal safety and the personal safety of individuals in
21 their care, or to educate, diagnose, treat, care for or protect a child alleged
22 to be in need of care. Information authorized to be disclosed pursuant to
23 this subsection shall not contain information that identifies a reporter of a
24 child who is alleged or adjudicated to be a child in need of care.

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

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

29 (3) A court-appointed special advocate for a child, a citizen review
30 board or other advocate that reports to the court.

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

33 (A) A child whom such service provider reasonably suspects may be
34 in need of care;

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

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

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

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

42 (7) The state child death review board established under K.S.A. 22a-
43 243, and amendments thereto.

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

3 (9) A foster parent, prospective foster parent, permanent custodian,
4 prospective permanent custodian, adoptive parent or prospective adoptive
5 parent. In order to assist such persons in making an informed decision
6 regarding acceptance of a particular child, to help the family anticipate
7 problems that may occur during the child's placement, and to help the
8 family meet the needs of the child in a constructive manner, the secretary
9 shall seek and shall provide the following information to such persons as
10 the information becomes available to the secretary:

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

12 (B) circumstances that necessitated placement;

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

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

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

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

21 (10) The state protection and advocacy agency as provided by K.S.A.
22 65-5603(a)(10) or ~~K.S.A. 74-5515(a)(2)(A) and (B)~~, and amendments
23 thereto.

24 (11) Any educational institution to the extent necessary to enable the
25 educational institution to provide the safest possible environment for its
26 pupils and employees.

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

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

33 (14) *The office of the child advocate.*

34 (d) *Specified access.* The following persons or entities shall have
35 access to information contained in agency records as specified.
36 Information authorized to be disclosed pursuant to this subsection shall not
37 contain information that identifies a reporter of a child who is alleged or
38 adjudicated to be a child in need of care.

39 (1) Information from confidential agency records of the Kansas
40 department for children and families, a law enforcement agency or any
41 juvenile intake and assessment worker of a child alleged or adjudicated to
42 be in need of care shall be available to members of the standing house or
43 senate committee on judiciary, house committee on corrections and

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

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

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

19 (A) The individuals involved or their representatives have given
20 express written consent; or

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

26 (e) *Law enforcement access.* The secretary shall disclose confidential
27 agency records of a child alleged or adjudicated to be a child in need of
28 care, as described in K.S.A. 38-2209, and amendments thereto, to the law
29 enforcement agency investigating the alleged or substantiated report or
30 investigation of abuse or neglect, regardless of the disposition of such
31 report or investigation. Such records shall include, but not be limited to,
32 any information regarding such report or investigation, records of past
33 reports or investigations concerning such child and such child's siblings
34 and the perpetrator or alleged perpetrator and the name and contact
35 information of the reporter or persons alleging abuse or neglect and case
36 managers, investigators or contracting ~~agency~~ *entity* employees assigned to
37 or investigating such report. Such records shall only be used for the
38 purposes of investigating the alleged or substantiated report or
39 investigation of abuse or neglect.

40 (f) *Court order.* Notwithstanding the provisions of this section, a
41 court of competent jurisdiction, after in camera inspection, may order
42 disclosure of confidential agency records pursuant to a determination that
43 the disclosure is in the best interests of the child who is the subject of the

1 reports or that the records are necessary for the proceedings of the court.
2 The court shall specify the terms of disclosure and impose appropriate
3 limitations.

4 (g) (1) Notwithstanding any other provision of law to the contrary,
5 except as provided in paragraph (6), in the event that child abuse or
6 neglect results in a child fatality or near fatality, reports or records of a
7 child alleged or adjudicated to be in need of care received by the secretary,
8 a law enforcement agency or any juvenile intake and assessment worker
9 shall become a public record and subject to disclosure pursuant to K.S.A.
10 45-215, and amendments thereto.

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

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

36 (A) Age and sex of the child;
37 (B) date of the fatality;
38 (C) a summary of any previous reports of abuse or neglect received
39 by the secretary involving the child, along with the findings of such
40 reports; and

41 (D) any department recommended services provided to the child.

42 (4) Notwithstanding the provisions of paragraph (2), in the event that
43 a child fatality occurs while such child was in the custody of the secretary

1 for children and families, the secretary shall release the following
2 information in response to an open records request made pursuant to the
3 Kansas open records act, within seven business days of receipt of such
4 request, as allowed by applicable law:

- 5 (A) Age and sex of the child;
- 6 (B) date of the fatality; and
- 7 (C) a summary of the facts surrounding the death of the child.

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

14 (6) Nothing in this subsection shall allow the disclosure of reports,
15 records or documents concerning the child and such child's biological
16 parents that were created prior to such child's adoption. Nothing ~~herein~~ *in*
17 *this section* is intended to require that an otherwise privileged
18 communication lose its privileged character.

19 Sec. 11. K.S.A. 38-2213 is hereby amended to read as follows: 38-
20 2213. (a) *Principle of limited disclosure.* Information contained in
21 confidential law enforcement records concerning a child alleged or
22 adjudicated to be in need of care may be disclosed as provided in this
23 section. Disclosure shall in all cases be guided by the principle of
24 providing access only to persons or entities with a need for information
25 that is directly related to achieving the purposes of this code.

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

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

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

36 (2) The secretary.

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

38 (4) Law enforcement officers or county or district attorneys or their
39 staff.

40 (5) Any juvenile intake and assessment worker.

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

42 (7) *The office of the child advocate.*

43 (8) Any other federal, state or local government executive branch

1 entity, or any agent of such entity, having a need for such information in
2 order to carry out such entity's responsibilities under law to protect
3 children from abuse and neglect.

4 ~~(8)~~(9) Persons or entities allowed access pursuant to ~~subsection (f) of~~
5 K.S.A. 38-2212(f), and amendments thereto.

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

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

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

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

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

1 house of representatives or senate.

2 (f) *Court order.* Notwithstanding the provisions of this section, a
3 court of competent jurisdiction, after in camera inspection, may order
4 disclosure of confidential law enforcement records pursuant to a
5 determination that the disclosure is in the best interests of the child who is
6 the subject of the reports or that the records are necessary for the
7 proceedings of the court and otherwise admissible as evidence. The court
8 shall specify the terms of disclosure and impose appropriate limitations.

9 Sec. 12. K.S.A. 38-2309 is hereby amended to read as follows: 38-
10 2309. (a) *Official file.* The official file of proceedings pursuant to this code
11 shall consist of the complaint, process, service of process, orders, writs and
12 journal entries reflecting hearings held, judgments and decrees entered by
13 the court. The official file shall be kept separate from other records of the
14 court.

15 (b) The official file shall be open for public inspection, unless the
16 judge determines that opening the official file for public inspection is not
17 in the best interests of a juvenile who is less than 14 years of age.
18 Information identifying victims and alleged victims of sex offenses, as
19 defined in article 35 of chapter 21 of the Kansas Statutes Annotated, prior
20 to their repeal, or article 55 of chapter 21 of the Kansas Statutes
21 Annotated, or K.S.A. 2022 Supp. 21-6419 through 21-6422, and
22 amendments thereto, or human trafficking or aggravated human
23 trafficking, as defined in K.S.A. 21-3446 or 21-3447, prior to their repeal,
24 or K.S.A. 2022 Supp. 21-5426, and amendments thereto, shall not be
25 disclosed or open to public inspection under any circumstances. Nothing in
26 this section shall prohibit the victim or alleged victim of any sex offense
27 from voluntarily disclosing such victim's identity. An official file closed
28 pursuant to this section and information identifying the victim or alleged
29 victim of any sex offense shall be disclosed only to the following:

30 (1) A judge of the district court and members of the staff of the court
31 designated by the judge;

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

33 (3) any individual or any public or private agency or institution:

34 (A) Having custody of the juvenile under court order; or

35 (B) providing educational, medical or mental health services to the
36 juvenile;

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

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

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

42 (7) the Kansas racing commission, upon written request of the
43 commission chairperson, for the purpose provided by K.S.A. 74-8804, and

1 amendments thereto, except that information identifying the victim or
2 alleged victim of any sex offense shall not be disclosed pursuant to this
3 subsection;

4 (8) juvenile intake and assessment workers;

5 (9) the commissioner;

6 (10) *the office of the child advocate*;

7 (11) any other person when authorized by a court order, subject to any
8 conditions imposed by the order; and

9 ~~(11)~~(12) the commission on judicial performance in the discharge of
10 the commission's duties pursuant to article 32 of chapter 20 of the Kansas
11 Statutes Annotated, and amendments thereto.

12 (c) (1) *Social file*. Reports and information received by the court,
13 other than the official file, shall be privileged and open to inspection only
14 by:

15 (A) Attorneys for the parties;

16 (B) juvenile intake and assessment workers;

17 (C) ~~court appointed~~ *court-appointed* special advocates;

18 (D) juvenile community corrections officers;

19 (E) the juvenile's guardian ad litem, if any;

20 (F) *the office of the child advocate*; or ~~upon~~

21 (G) *any other person when authorized by the order of a judge of the*
22 *district court or appellate court.*

23 (2) The reports shall not be further disclosed without approval of the
24 court or by being presented as admissible evidence.

25 (d) *Preservation of records*. The Kansas state historical society shall
26 be allowed to take possession for preservation in the state archives of any
27 court records related to proceedings under the Kansas juvenile justice code
28 or the revised Kansas juvenile justice code whenever such records
29 otherwise would be destroyed. The Kansas state historical society shall
30 make available for public inspection any unexpunged docket entry or
31 official file in its custody concerning any juvenile 14 or more years of age
32 at the time an offense is alleged to have been committed by the juvenile.
33 No other such records in the custody of the Kansas state historical society
34 shall be disclosed directly or indirectly to anyone for 70 years after
35 creation of the records, except as provided in subsections (b) and (c). A
36 judge of the district court may allow inspection for research purposes of
37 any court records in the custody of the Kansas state historical society
38 related to proceedings under the Kansas juvenile justice code or the
39 revised Kansas juvenile justice code.

40 (e) Relevant information, reports and records, shall be made available
41 to the department of corrections upon request, and a showing that the
42 former juvenile has been convicted of a crime and placed in the custody of
43 the secretary of corrections.

1 Sec. 13. K.S.A. 38-2310 is hereby amended to read as follows: 38-
2 2310. (a) 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 under 14 years of age shall be kept readily
5 distinguishable from criminal and other records and shall not be disclosed
6 to anyone except:

7 (1) The judge of the district court and members of the staff of the
8 court designated by the judge;

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

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

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

15 (5) any educational institution, to the extent necessary to enable the
16 educational institution to provide the safest possible environment for its
17 pupils and employees;

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

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

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

26 (9) juvenile intake and assessment workers;

27 (10) the department of corrections;

28 (11) juvenile community corrections officers;

29 (12) the interstate compact for juveniles compact administrator for
30 the purpose of carrying out the responsibilities related to the interstate
31 compact for juveniles;

32 (13) *the office of the child advocate*;

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

35 ~~(14)~~(15) as provided in subsection (c).

36 (b) The provisions of this section shall not apply to records
37 concerning:

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

43 (2) a violation, by a person 16 or more years of age, of any provision

1 of chapter 32 of the Kansas Statutes Annotated, and amendments thereto;
2 or

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

4 (c) All records of law enforcement officers and agencies and
5 municipal courts concerning an offense committed or alleged to have been
6 committed by a juvenile 14 or more years of age shall be subject to the
7 same disclosure restrictions as the records of adults. Information
8 identifying victims and alleged victims of sex offenses, as defined in
9 article 35 of chapter 21 of the Kansas Statutes Annotated, prior to their
10 repeal, or article 55 of chapter 21 of the Kansas Statutes Annotated, and
11 amendments thereto, K.S.A. 2022 Supp. 21-6419 through 21-6422, and
12 amendments thereto, or human trafficking or aggravated human
13 trafficking, as defined in K.S.A. 21-3446 or 21-3447, prior to their repeal,
14 or K.S.A. 2022 Supp. 21-5426, and amendments thereto, shall not be
15 disclosed or open to public inspection under any circumstances. Nothing in
16 this section shall prohibit the victim or any alleged victim of any sex
17 offense from voluntarily disclosing such victim's identity.

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

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

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

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

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

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

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

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

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

43 (F) an agency charged with the responsibility of preventing or

1 treating physical, mental or emotional abuse or neglect or sexual abuse of
2 children, if the agency requesting the information has standards of
3 confidentiality as strict or stricter than the requirements of the Kansas code
4 for care of children or the revised Kansas juvenile justice code, whichever
5 is applicable;

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

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

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

18 (J) a citizen review board pursuant to K.S.A. 38-2207, and
19 amendments thereto;

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

23 (L) any educator to the extent necessary for the protection of the
24 educator and pupils;

25 (M) any juvenile intake and assessment worker of another certified
26 juvenile intake and assessment program; ~~and~~

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

30 (O) *the office of the child advocate.*

31 Sec. 14. K.S.A. 38-2213, 38-2309 and 38-2310 and K.S.A. 2022
32 Supp. 38-2211 and 38-2212 are hereby repealed.

33 Sec. 15. This act shall take effect and be in force from and after its
34 publication in the statute book.