

2012 Kansas Statutes

38-2229. Investigation of abuse or neglect; subpoena; request to quash. (a) The secretary, a law enforcement officer, or a multidisciplinary team appointed pursuant to K.S.A. 2012 Supp. 38-2228, and amendments thereto, may request disclosure of documents, reports or information in regard to a child, who is the subject of a report of abuse or neglect, by making a written verified application to the district court. Upon a finding by the court that there is probable cause to believe the information sought will assist in the investigation of a report of child abuse or neglect, the court may issue a subpoena, subpoena duces tecum or an order for the production of the requested documents, reports or information and directing the documents, reports or information to be delivered to the applicant at a specific time, date and place.

(b) The time and date of delivery shall not be sooner than five days after the service of the subpoena or order, excluding Saturdays, Sundays, holidays, and days on which the office of the clerk of the court is not accessible. The court issuing the subpoena or order shall keep all applications filed pursuant to this subsection and a copy of the subpoena or order in a special file maintained for that purpose. Upon receiving service of a subpoena, subpoena duces tecum or an order for production pursuant to this section, the person or agency served shall give oral or written notice of service to any person known to have a right to assert a privilege or assert a right of confidentiality in regard to the documents, reports or information sought at least seven days before the date of delivery.

(c) Any parent, child, guardian ad litem, person or entity subpoenaed or subject to an order of production or person or entity who claims a privilege or right of confidentiality may request in writing that the court issuing the subpoena or order of production quash the subpoena, subpoena duces tecum or order for production issued pursuant to this section. The request shall automatically stay the operation of the subpoena, subpoena duces tecum or order for production and the documents, reports or information requested shall not be delivered until the issuing court has held a hearing to determine if the documents, reports or information are subject to the claimed privilege or right of confidentiality, and whether it is in the best interests of the child for the subpoena or order to produce to be honored. The request to quash shall be filed with the district court issuing the subpoena or order at least 24 hours prior to the specified time and date of delivery, excluding Saturdays, Sundays, holidays, or days on which the office of the clerk of the court is not accessible, and a copy of the written request must be given to the person subpoenaed or subject to the order for production at least 24 hours prior to the specified time and date of delivery.

History: L. 2006, ch. 200, § 24; L. 2010, ch. 135, § 46; July 1.

Revisor's Note:

Section was also amended by L. 2010, ch. 11, § 3, but that version was repealed by L. 2010, ch. 135, § 225.