

HOUSE BILL No. 2233

By Committee on Children and Seniors

2-6

Technical Amendment
HB 2233
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1 AN ACT concerning children and minors; establishing the protective
2 parent reform act; amending K.S.A. 2012 Supp. 38-2226 and 38-2230
3 and repealing the existing sections.
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5 *Be it enacted by the Legislature of the State of Kansas:*

6 New Section 1. (a) This section shall be known and may be cited as
7 the protective parent reform act.

8 (b) In any proceeding under article 22 of chapter 38 of the Kansas
9 Statutes Annotated and article 16 of chapter 60 of the Kansas Statutes
10 Annotated, and amendments thereto, involving child custody and visitation
11 and child in need of care proceedings:
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13 (1) If a parent makes a good faith allegation, based on a reasonable
14 belief supported by facts, that the parent's child is a victim of physical,
15 mental or emotional abuse or neglect or sexual abuse perpetrated or
16 allowed by the other parent and if the parent making the allegation acts
17 lawfully and in good faith in accordance with such belief to protect the
18 child or seek treatment for the child, the parent making the allegation shall
19 not be deprived of custody, visitation or contact with the child based solely
20 on the belief or reasonable actions taken in accordance with such belief.

21 (2) If an allegation that a child is a victim of physical, mental or
22 emotional abuse or neglect or sexual abuse perpetrated or allowed by a
23 parent is supported by a preponderance of evidence, the court shall
24 consider such evidence in determining custody and visitation that is in the
25 best interests of the child and shall not award custody of the child to the
26 parent who presents a substantial risk of harm to the child.

27 (3) No ex parte communications shall be made between the court and
28 any guardian ad litem for the child, attorney for the child or other
29 professional participating in the proceeding.

30 (4) Notwithstanding the provisions of K.S.A. 2012 Supp. 38-2205,
31 and amendments thereto, the role of any guardian ad litem or attorney for
32 the child shall be limited to advocating for the desires of the child and
33 participating in the proceeding by presenting evidence and argument in the
34 same manner as an attorney for the parent. The guardian ad litem or
35 attorney for the child shall not substitute the guardian ad litem or attorney's
36 personal opinion and judgment for the desires of the child or offer
evidence which would be excluded if offered by any other party. In no case

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1 issued a protection from abuse order, at no time shall this order be
2 consolidated into any proceeding under article 22 of chapter 38 of the
3 Kansas Statutes Annotated, and amendments thereto, and article 16 of
4 chapter 69 of the Kansas Statutes Annotated, and amendments thereto.

5 New Sec. 2. (a) In any proceeding under article 22 of chapter 38 of
6 the Kansas Statutes Annotated, and amendments thereto, a child shall not
7 be subjected to more than one interview concerning the alleged physical,
8 mental or emotional abuse or neglect or sexual abuse of the child, except
9 when new information is obtained that requires further information from
10 the child. The child shall not be videotaped more than once unless the
11 interviewer or investigating agency determines that one or more additional
12 interviews are necessary to complete the investigation. If additional
13 interviews are necessary, the additional interviews shall be conducted, to
14 the extent possible, by the same interviewer who conducted the initial
15 interview of the child.

16 (b) A recorded interview of a child shall be preserved in the manner
17 and for a period provided for maintaining evidence. A recorded interview
18 of a child is subject to disclosure under the applicable court rules for
19 discovery in a civil or criminal case.

20 (c) When conducting an investigation, the department for children
21 and families and law enforcement agency shall videotape the interview
22 with a clock on the wall behind the child to ensure the accuracy of the
23 time. Each recording shall include the full names of each individual
24 involved in and present during the interview, as well as the date and time
25 of the interview.

26 Sec. 3. K.S.A. 2012 Supp. 38-2226 is hereby amended to read as
27 follows: 38-2226. (a) *Investigation for child abuse or neglect.* The
28 secretary and law enforcement officers shall have the duty to receive and
29 investigate reports of child abuse or neglect for the purpose of determining
30 whether the report is valid and whether action is required to protect a
31 child. Any person or agency which maintains records relating to the
32 involved child which are relevant to any investigation conducted by the
33 secretary or law enforcement agency under this code shall provide the
34 secretary or law enforcement agency with the necessary records to assist in
35 investigations. In order to provide such records, the person or agency
36 maintaining the records shall receive from the secretary or law
37 enforcement: (1) A written request for information; and (2) a written notice
38 that the investigation is being conducted by the secretary or law
39 enforcement. If the secretary and such officers determine that no action is
40 necessary to protect the child but that a criminal prosecution should be
41 considered, such law enforcement officers shall make a report of the case
42 to the appropriate law enforcement agency.

43 (b) *Joint investigations.* When a report of child abuse or neglect