

## SENATE BILL No. 66

By Committee on Public Health and Welfare

1-18

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AN ACT concerning children in need of care; technical amendment; amending K.S.A. 38-1507 and repealing the existing section.

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

Section 1. K.S.A. 38-1507 is hereby amended to read as follows: 38-1507. (a) Except as otherwise provided, in order to protect the privacy of children who are the subject of a child in need of care record or report, all records and reports concerning children in need of care, including the juvenile intake and assessment report, received by the department of social and rehabilitation services, a law enforcement agency or any juvenile intake and assessment worker shall be kept confidential except: (1) To those persons or entities with a need for information that is directly related to achieving the purposes of this code, or (2) upon an order of a court of competent jurisdiction pursuant to a determination by the court that disclosure of the reports and records is in the best interests of the child or are necessary for the proceedings before the court, or both, and are otherwise admissible in evidence. Such access shall be limited to in camera inspection unless the court otherwise issues an order specifying the terms of disclosure.

(b) The provisions of subsection (a) shall not prevent disclosure of information to an educational institution or to individual educators about a pupil specified in subsection (a) of K.S.A. 2000 Supp. 72-89b03 and amendments thereto.

(c) When a report is received by the department of social and rehabilitation services, a law enforcement agency or any juvenile intake and assessment worker which indicates a child may be in need of care, the following persons and entities shall have a free exchange of information between and among them:

- (1) The department of social and rehabilitation services;
- (2) the commissioner of juvenile justice;
- (3) the law enforcement agency receiving such report;
- (4) members of a court appointed multidisciplinary team;
- (5) an entity mandated by federal law or an agency of any state authorized to receive and investigate reports of a child known or suspected to be in need of care;

1 (6) a military enclave or Indian tribal organization authorized to re-  
2 ceive and investigate reports of a child known or suspected to be in need  
3 of care;

4 (7) a county or district attorney;

5 (8) a court services officer who has taken a child into custody pursuant  
6 to K.S.A. 38-1527, and amendments thereto;

7 (9) a guardian ad litem appointed for a child alleged to be in need of  
8 care;

9 (10) an intake and assessment worker;

10 (11) any community corrections program which has the child under  
11 court ordered supervision;

12 (12) the department of health and environment or persons authorized  
13 by the department of health and environment pursuant to K.S.A. ~~50-512~~  
14 ~~65-512~~, and amendments thereto, for the purpose of carrying out re-  
15 sponsibilities relating to licensure or registration of child care providers  
16 as required by chapter 65 of article 5 of the Kansas Statutes Annotated,  
17 and amendments thereto; and

18 (13) members of a duly appointed community services team.

19 (d) The following persons or entities shall have access to information,  
20 records or reports received by the department of social and rehabilitation  
21 services, a law enforcement agency or any juvenile intake and assessment  
22 worker. Access shall be limited to information reasonably necessary to  
23 carry out their lawful responsibilities to maintain their personal safety and  
24 the personal safety of individuals in their care or to diagnose, treat, care  
25 for or protect a child alleged to be in need of care.

26 (1) A child named in the report or records.

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

29 (3) A court-appointed special advocate for a child, a citizen review  
30 board or other advocate which 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: (A) A child  
33 whom such service provider reasonably suspects may be in need of care;  
34 (B) a member of the child's family; or (C) a person who allegedly abused  
35 or neglected the child.

36 (5) A person or entity licensed or registered by the secretary of health  
37 and environment or approved by the secretary of social and rehabilitation  
38 services to care for, treat or supervise a child in need of care. In order to  
39 assist a child placed for care by the secretary of social and rehabilitation  
40 services in a foster home or child care facility, the secretary shall provide  
41 relevant information to the foster parents or child care facility prior to  
42 placement and as such information becomes available to the secretary.

43 (6) A coroner or medical examiner when such person is determining

1 the cause of death of a child.

2 (7) The state child death review board established under K.S.A. 22a-  
3 243, and amendments thereto.

4 (8) A prospective adoptive parent prior to placing a child in their care.

5 (9) The department of health and environment or person authorized  
6 by the department of health and environment pursuant to K.S.A. ~~50-512~~  
7 *65-512*, and amendments thereto, for the purpose of carrying out re-  
8 sponsibilities relating to licensure or registration of child care providers  
9 as required by chapter 65 of article 5 of the Kansas Statutes Annotated,  
10 and amendments thereto.

11 (10) The state protection and advocacy agency as provided by sub-  
12 section (a)(10) of K.S.A. 65-5603 or subsection (a)(2)(A) and (B) of K.S.A.  
13 74-5515, and amendments thereto.

14 (11) Any educational institution to the extent necessary to enable the  
15 educational institution to provide the safest possible environment for its  
16 pupils and employees.

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

19 (13) The secretary of social and rehabilitation services.

20 (14) A law enforcement agency.

21 (15) A juvenile intake and assessment worker.

22 (16) The commissioner of juvenile justice.

23 (e) Information from a record or report of a child in need of care  
24 shall be available to members of the standing house or senate committee  
25 on judiciary, house committee on appropriations, senate committee on  
26 ways and means, legislative post audit committee and joint committee on  
27 children and families, carrying out such member's or committee's official  
28 functions in accordance with K.S.A. 75-4319 and amendments thereto,  
29 in a closed or executive meeting. Except in limited conditions established  
30 by  $\frac{2}{3}$  of the members of such committee, records and reports received  
31 by the committee shall not be further disclosed. Unauthorized disclosure  
32 may subject such member to discipline or censure from the house of  
33 representatives or senate.

34 (f) Nothing in this section shall be interpreted to prohibit the secre-  
35 tary of social and rehabilitation services from summarizing the outcome  
36 of department actions regarding a child alleged to be a child in need of  
37 care to a person having made such report.

38 (g) Disclosure of information from reports or records of a child in  
39 need of care to the public shall be limited to confirmation of factual details  
40 with respect to how the case was handled that do not violate the privacy  
41 of the child, if living, or the child's siblings, parents or guardians. Further,  
42 confidential information may be released to the public only with the ex-  
43 press written permission of the individuals involved or their representa-

1 tives or upon order of the court having jurisdiction upon a finding by the  
2 court that public disclosure of information in the records or reports is  
3 necessary for the resolution of an issue before the court.

4 (h) Nothing in this section shall be interpreted to prohibit a court of  
5 competent jurisdiction from making an order disclosing the findings or  
6 information pursuant to a report of alleged or suspected child abuse or  
7 neglect which has resulted in a child fatality or near fatality if the court  
8 determines such disclosure is necessary to a legitimate state purpose. In  
9 making such order, the court shall give due consideration to the privacy  
10 of the child, if, living, or the child's siblings, parents or guardians.

11 (i) Information authorized to be disclosed in subsections (d) through  
12 (g) shall not contain information which identifies a reporter of a child in  
13 need of care.

14 (j) Records or reports authorized to be disclosed in this section shall  
15 not be further disclosed, except that the provisions of this subsection shall  
16 not prevent disclosure of information to an educational institution or to  
17 individual educators about a pupil specified in subsection (a) of K.S.A.  
18 2000 Supp. 72-89b03 and amendments thereto.

19 (k) Anyone who participates in providing or receiving information  
20 without malice under the provisions of this section shall have immunity  
21 from any civil liability that might otherwise be incurred or imposed. Any  
22 such participant shall have the same immunity with respect to participa-  
23 tion in any judicial proceedings resulting from providing or receiving  
24 information.

25 (l) No individual, association, partnership, corporation or other entity  
26 shall willfully or knowingly disclose, permit or encourage disclosure of  
27 the contents of records or reports concerning a child in need of care  
28 received by the department of social and rehabilitation services, a law  
29 enforcement agency or a juvenile intake and assessment worker except  
30 as provided by this code. Violation of this subsection is a class B  
31 misdemeanor.

32 Sec. 2. K.S.A. 38-1507 is hereby repealed.

33 Sec. 3. This act shall take effect and be in force from and after its  
34 publication in the statute book.

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