

MINUTES OF THE HOUSE COMMITTEE ON JUDICIARY

The meeting was called to order by Michael O'Neal at _____
Chairperson

7:30 a.m./p.m. on March 28, _____, 1990 in room 313-S of the Capitol.

All members were present except:

Representatives Buehler, Fuller, Gomez, Peterson, Roy and Vancrum, who were excused.

Committee staff present:

Jerry Donaldson, Legislative Research Department
Jill Wolters, Revisor of Statutes Office
Mary Jane Holt, Committee Secretary

Conferees appearing before the committee:

DISCUSSION AND CONSIDERATION OF BILLS

SB 522 Concerning child abuse

The Committee discussed a balloon that contained amendments suggested by the Chairman, the Department of Education, and Social and Rehabilitation Services. One amendment incorporated multi-disciplinary team language from HB 2834, see Attachment I.

Representative Jenkins moved and Representative Lawrence seconded to adopt the amendments. The motion passed.

Representative Jenkins moved and Representative Lawrence seconded to report SB 522, as amended, favorably for passage. The motion passed.

SB 674 Crime victims compensation, eligibility

The Chairman explained this bill is the same as the amended HB 2734 the Committee passed February 26, 1990. The Attorney General's office has requested the Committee pass this bill also as HB 2734 has not as yet been passed by the Senate Judiciary Committee.

Representative Solbach moved to report SB 674 favorably for passage. Representative Jenkins seconded the motion. The motion passed.

SB 699 Procedure for public employee relations board

Representative Snowbarger moved and Representative Jenkins seconded to report SB 699 favorably for passage. The motion passed.

SB 714 Child victim testimony in criminal trials

Representative Solbach moved to report SB 714 favorably for passage. Representative Whiteman seconded the motion. The motion passed.

SB 690 Probate proceedings, venue in any county where decedent owned real property

Representative Solbach moved and Representative Everhart seconded to change "publication in the statute book to "publication in the Kansas Register". The motion was withdrawn.

The Committee discussed an amendment to change "owned real estate" to "owned an interest in real estate", in lines 17, 18 and 22.

Representative Solbach moved to change "owned real estate" to "owned an interest in real estate" in lines 17, 18 and 22. Representative Everhart seconded the motion. The motion passed.

Representative Solbach moved and Representative Everhart seconded to change "publication in the statute book" to "publication in the Kansas Register". The motion passed.

A motion was made by Representative Solbach to report SB 690, as amended, favorably for passage. Representative Jenkins seconded the motion. The motion passed.

Unless specifically noted, the individual remarks recorded herein have not been transcribed verbatim. Individual remarks as reported herein have not been submitted to the individuals appearing before the committee for editing or corrections.

CONTINUATION SHEET

MINUTES OF THE HOUSE COMMITTEE ON JUDICIARY,
room 313-S, Statehouse, at 7:30 a.m./~~p.m.~~ on March 28, 1990

HB 3067 Secretary of State to temporarily file fax documents as originals until originals arrive

The Committee discussed the amendments proposed by the Secretary of State's office. They proposed changing in line 37 the word "fee" to "fees" and adding in line 35 after the period "The Secretary of State shall prescribe a telefacsimile communication fee in addition to any filing fees to cover the cost of the services. The fee must be paid prior to acceptance of a telefacsimile communication under this section. The telefacsimile communication fee shall be deposited into the information and copy service fee fund."

Representative Solbach moved to adopt the amendments proposed by the Secretary of State's office. Representative Jenkins seconded the motion. The motion passed.

A motion was made by Representative Douville to report HB 3067, as amended, favorably for passage. Representative Lawrence seconded the motion. The motion passed.

The Committee meeting adjourned at 8:20 a.m.

SENATE BILL No. 522

By Committee on Judiciary

1-19

10 AN ACT concerning child abuse; amending K.S.A. 38-1514, 38-1608,
11 38-1609, 38-1661 and 38-1662 and K.S.A. 1989 Supp. 38-1507,
12 38-1523, 38-1523a and 38-1607 and repealing the existing sections.

13
14 *Be it enacted by the Legislature of the State of Kansas:*

15 Section 1. K.S.A. 1989 Supp. 38-1507 is hereby amended to read
16 as follows: 38-1507. (a) All records and reports concerning child abuse
17 or neglect received by the department of social and rehabilitation
18 services or a law enforcement agency in accordance with K.S.A. 38-
19 1522 and amendments thereto are confidential and shall not be dis-
20 closed except under the following conditions:

21 (1) Upon the order of any court after a determination by the
22 court issuing the order that the records and reports are necessary
23 for the conduct of proceedings before it and are otherwise admissible
24 in evidence, except that access shall be limited to *in camera* in-
25 spection unless the court determines that public disclosure of the
26 information contained in the records and reports is necessary for the
27 resolution of an issue then pending before it.

28 (2) The secretary or the law enforcement agency where the report
29 is filed shall authorize access to any records or reports concerning
30 child abuse or neglect to any of the following persons upon order
31 of any court and may authorize access to such persons without a
32 court order if the child involved is a subject of the record or report:

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

36 (B) a court-appointed special advocate for a child, which advocate
37 reports to the court, or an agency having the legal responsibility or
38 authorization to care for, treat or supervise a child;

39 (C) a parent or other person responsible for the welfare of a
40 child, or such person's legal representative with protection for the
41 identity of reporters and other appropriate persons;

(D) the guardian *ad litem* for such child;

(E) a police or other law enforcement agency ~~investigating a~~

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[O'Neal suggestion]

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~~report of known or suspected child abuse or neglect;~~

(F) an agency of another state charged with the responsibility of preventing or treating physical, mental or emotional abuse or neglect or sexual abuse of children within that state, if the state of the agency requesting the information has standards of confidentiality as strict or stricter than the requirements of this code; or

(G) a person who is a member of a multidisciplinary team designated for a particular child; if the person has signed a confidentiality agreement with standards as strict or stricter than the requirements of this code; or

(H) a person who is a member of a multidisciplinary team designated for a particular child; an agency authorized by a properly constituted authority to diagnose, care for, treat or supervise a child who is the subject of a report or record of child abuse or neglect.

(I) the principal of the school attended by the child, who shall distribute the records or reports to the child's teachers or school counselor, or other persons involved in the child's education or determinations of the child's educational needs, for the purpose of determining and meeting the child's needs. The records or reports shall not be further disclosed by such teacher, school counselor or other person without approval of the court or by being presented as admissible evidence; or

(J) law enforcement officers.

(b) No individual, association, partnership, corporation or other entity shall willfully or knowingly permit or encourage the unauthorized dissemination of the contents of records or reports concerning child abuse or neglect received by the department of social and rehabilitation services or a law enforcement agency in accordance with K.S.A. 38-1522 and amendments thereto except as provided by this code. Violation of this subsection is a class B misdemeanor.

(c) Records or reports given by persons described in paragraphs (a)(2)(A) and (I) shall not be further disclosed to persons who are not members of the multidisciplinary team without prior approval of the court.

Sec. 2. K.S.A. 38-1514 is hereby amended to read as follows: 38-1514. (a) Of child. (1) Psychological or emotional. During proceedings under this code, the court, on its own motion or the motion of the guardian ad litem for the child, may order an evaluation and written report of the psychological or emotional development or needs of a child who is the subject of the proceedings. The court may refer the child to a state institution for the evaluation if the secretary advises the court that the facility is a suitable place to care

to

paragraph

[Dept. of Education] suggestion

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for, treat or evaluate the child and that space is available. The expenses of transportation to and from the state facility may be paid as a part of the expenses of temporary care and custody. The child may be referred to a mental health center or qualified professional for evaluation and the expenses of the evaluation may be considered as expenses of the proceedings and assessed as provided in this code. If the court orders an evaluation as provided in this section, a parent of the child shall have the right to obtain an independent evaluation at the expense of the parent.

(2) *Medical.* During proceedings under this code, the court may order an examination and report of the medical condition and needs of a child who is the subject of the proceedings. The court may also order a report from any physician who has been attending the child stating the diagnosis, condition and treatment afforded the child.

(3) *Educational.* The court may ~~request~~ the chief administrative officer of the school which the child attends or attended to provide to the court information that is readily available which the school officials believe would properly indicate the educational needs of the child. ~~If~~ the resources of the school permit, the school may conduct an educational needs assessment of the child and send a report of the assessment to the court. The educational needs assessment may include a meeting involving any of the following: The child's parents, the child's teachers, the school psychologist, a school special services representative and other persons that the chief administrative officer of the school, or the officer's designee, considers appropriate, a representative of the secretary, the juvenile offender's C.A.S.A., the juvenile offender's foster parents or legal guardian, a court services officer, and other persons that the chief administrative officer of the school or the officer's designee considers appropriate.

(b) *Of parent or custodian.* (1) *Physical, psychological or emotional.* During proceedings under this code, the court may order an examination, evaluation and report of the physical, mental or emotional status or needs of a parent or any other relative being considered as one to whom the court may grant custody. Written reports and other materials relating to the examination and evaluation may be considered by the court but, if requested by any interested party in attendance, the court shall require the person preparing the report or other material to appear and testify.

(2) *Parenting skills.* At any dispositional hearing, the court may receive and consider written reports from any physician or qualified person concerning the parenting skills or ability to provide for the physical, mental or emotional needs and future development of a

order

The order may direct that, if

child's [SRS suggestion]

the child's foster parents or legal guardian,

[Dept. of Education suggestions, except as noted above]

child by a parent or other relative being considered for custody. If requested by any interested party in attendance at the dispositional hearing, the court shall require the person preparing the report to appear and testify.

(c) *Confidentiality of reports.* (1) *Reports of court ordered examination or evaluation.* No confidential relationship of physician and patient, psychologist and client or social worker and client shall arise from an examination or evaluation ordered by the court.

(2) *Report from private physician, psychologist or therapist.* When any interested party to proceedings under this code wishes the court to have the benefit of information or opinion from a physician, psychologist or social worker with whom there is a confidential relationship, the interested party may waive the confidential relationship but restrict the information to be furnished or testimony to be given to those matters material to the issues before the court. If requested, the court may make an *in camera* examination of the proposed witness or the file of the proposed witness and excise any matters that are not material to the issues before the court.

Sec. 3. K.S.A. 1989 Supp. 38-1523 is hereby amended to read as follows: 38-1523. (a) *Investigation for child abuse or neglect.* The state department of social and rehabilitation services and law enforcement officers shall have the primary duty to receive and investigate reports of child abuse or neglect for the purpose of determining whether the report is valid and whether action is required to protect the child from further abuse or neglect. If the department determines and such officers determine that no action is necessary to protect the child but that a criminal prosecution should be considered, the department and such law enforcement officers shall make a report of the case to the appropriate law enforcement agency.

(b) *Joint investigations.* When a report of child abuse or neglect indicates (1) that there is serious physical injury to or serious deterioration or sexual abuse of the child and (2) that action may be required to protect the child, the investigation shall be conducted as a joint effort between the department of social and rehabilitation services and the appropriate law enforcement agency or agencies, with a free exchange of information between them. If a statement of a suspect is obtained by the law enforcement agency, a copy of the statement shall be provided to the department of social and rehabilitation services on request.

(c) *Investigation of certain cases.* Suspected child abuse or neglect which occurs in an institution operated by the secretary shall be investigated by an agent under the direction of the attorney

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general. Any other suspected child abuse or neglect by persons employed by or of children of persons employed by the state department of social and rehabilitation services shall be investigated by the appropriate law enforcement agency under the direction of the appropriate county or district attorney, and not by the state department of social and rehabilitation services.

(d) *Coordination of investigations by county or district attorney.* If a dispute develops between agencies investigating a reported case of child abuse or neglect, the appropriate county or district attorney shall take charge of, direct and coordinate the investigation.

(e) *Investigations concerning certain facilities.* Any investigation involving a facility subject to licensing or regulation by the secretary of health and environment shall be promptly reported to the state secretary of health and environment.

(f) *Cooperation between agencies.* Law enforcement agencies and the department of social and rehabilitation services shall assist each other in taking action which is necessary to protect the child regardless of which party conducted the initial investigation.

(g) *Cooperation between school personnel and investigative agencies.* Elementary and secondary schools, the state department of social and rehabilitation services and law enforcement agencies shall cooperate with each other in the investigation of reports of suspected child abuse or neglect. Administrators of elementary and secondary schools shall provide to employees of the state department of social and rehabilitation services and law enforcement agencies access to a child in a setting on school premises determined by school personnel for the purpose of the investigation of a report of suspected child abuse or neglect. To the extent that safety and practical considerations allow, law enforcement officers on school premises for the purpose of investigating a report of suspected child abuse or neglect shall not be in uniform.

(h) *The secretary or the secretary's designee or a law enforcement officer 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 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.*

The time and date of delivery shall not be sooner than five days

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1 after the service of the subpoena or order, excluding Saturdays,
2 Sundays and holidays. The court issuing the subpoena or order shall
3 keep all applications filed pursuant to this subsection and a copy of
4 the subpoena or order in a special file maintained for that purpose.
5 Upon receiving service of a subpoena, subpoena duces tecum or an
6 order for production pursuant to this subsection, the party served
7 shall give oral or written notice of service to any person known to
8 have a right to assert a privilege or assert a right of confidentiality
9 in regard to the documents, reports or information sought at least
10 three days before the date of delivery.

11 (i) The written verified application shall be in substantially the
12 following form:

13 *Name of Court*
14 In the Interest of _____ Case No. _____
15 *Name(s)*

16 Date of birth: _____

17 Each a child under 18 years of age.

18 WRITTEN APPLICATION FOR DISCLOSURE OF INFORMATION

19 County of _____

20 ss

21 State of Kansas

22 The undersigned applicant being first duly sworn alleges and states as follows:

- 23 1. The applicant is _____
- 24 2. There is an investigation being made into the report of alleged abuse or neglect
- 25 in regard to the above-named child or children.
- 26 3. The following documents, reports and/or information are requested. (List
- 27 specifically.)
- 28 4. The reasons for the request are:

29 Further applicant saith not.

30 _____
31 Applicant

32 Subscribed and sworn to before me

33 this _____ day of _____, 19____

34 _____
35 Notary Public

36 My commission expires:
37 _____

38 (j) Any parent, child, guardian ad litem, party subpoenaed or
39 subject to an order of production or person who claims a privilege
40 or right of confidentiality may request in writing that the court
41 issuing the subpoena or order of production withdraw the subpoena,
42 subpoena duces tecum or order for production issued pursuant to
43 subsection (i). The request shall automatically stay the operation of

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1 the subpoena, subpoena duces tecum or order for production and
2 the documents, reports or information requested shall not be deliv-
3 ered until the issuing court has held a hearing to determine if the
4 documents, reports or information are subject to the claimed priv-
5 ilege or right of confidentiality ~~or it is in the best interests of the~~
6 child for the subpoena or order to produce shall be honored. The
7 request to withdraw shall be filed with the district court issuing the
8 subpoena or order at least 24 hours prior to the specified time and
9 date of delivery, excluding Saturdays, Sundays or holidays, and a
10 copy of the written request must be given to the person subpoenaed
11 or subject to the order for production at least 24 hours prior to the
12 specified time and date of delivery.

[redacted], and whether

[redacted] to

[Dept. of Education suggestion]

13 Sec. 4. K.S.A. 1989 Supp. 38-1523a is hereby amended to read
14 as follows: 38-1523a. (a) Upon recommendation of the state depart-
15 ment of social and rehabilitation services or the county or district
16 attorney, the court may appoint a multidisciplinary team to assist in
17 gathering information regarding a child alleged to be a child in need
18 of care by reason of physical, mental or emotional abuse or neglect
19 or sexual abuse.

[redacted] The team may be a standing multidisciplinary
team or may be appointed for a specific child.

20 ~~(b) The state department of social and rehabilitation services, as~~
21 ~~deemed appropriate, may appoint a multidisciplinary team to assist~~
22 ~~the department in making recommendations regarding provision of~~
23 ~~services to a child who has been adjudicated a child in need of care~~
24 ~~by reason of physical, mental or emotional abuse or neglect or sexual~~
25 ~~abuse.~~

[SRS suggestion, HB 2834]

26 ~~(c) Any person appointed as a member of a multidisciplinary team~~
27 ~~may decline to serve and shall incur no civil liability as the result~~
28 ~~of declining to serve.~~

[redacted] (b)

29 ~~(d) Any information relating to the child for whom services are~~
30 ~~being recommended and received by a multidisciplinary team, or a~~
31 ~~member thereof, in confidential communications between such team~~
32 ~~or member and the perpetrator of the abuse or neglect in the course~~
33 ~~of carrying out the team's or member's functions under this section~~
34 ~~shall be privileged and the perpetrator has a privilege to: (1) Refuse~~
35 ~~to disclose any such communication, if the perpetrator is a witness~~
36 ~~in a criminal proceeding; (2) prevent the team or member from~~
37 ~~disclosing it in a criminal proceeding; or (3) prevent any other witness~~
38 ~~from disclosing it if it came to the knowledge of such witness in the~~
39 ~~course of its transmittal between the perpetrator and the team or~~
40 ~~team member, in a manner not reasonably to be anticipated by the~~
41 ~~perpetrator or as a result of disclosure by the team or team member.~~

[redacted] (c)

42 ~~(e) This section shall be part of and supplemental to the Kansas~~
43 ~~code for care of children.~~

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(d)

~~(f)~~ The multidisciplinary team may request disclosure of information in regard to a child alleged to be a child in need of care, or a child who has been adjudged to be a child in need of care, by making a written verified application to the district court. Upon a finding by the court there is probable cause to believe the information sought may assist in determining if a child is a child in need of care as defined in K.S.A. 38-1502 and amendments thereto, or in assisting a child who has been adjudicated a child in need of care, then the court may issue a subpoena, subpoena duces tecum or enter an order for the production of the requested documents, reports or information and directing the document, reports or information to be delivered to the applicant at a specified time, date and place. The time and date of delivery shall not be sooner than five days after the service of the subpoena or order, excluding Saturdays, Sundays or holidays. 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 such purpose or in the official court file for the child. Upon receiving service of a subpoena, subpoena duces tecum or an order for production pursuant to this subsection, the party 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 three days before the specified date of delivery.

(e)

~~(g)~~ The written verified application shall be in substantially the following form:

Name of Court _____
In the Interest of _____ Case No. _____
Name(s) _____
Date of birth: _____
Each a child under 18 years of age.

WRITTEN APPLICATION FOR DISCLOSURE OF INFORMATION

County of _____

ss

State of Kansas

The undersigned applicant being first duly sworn alleges and states as follows:

1. The applicant is _____
2. There is an investigation being made into the report of alleged neglect or abuse in regard to the above-named child or children.

A petition has been filed alleging the above-named child is a child in need of care or the child has been adjudicated to be a child in need of care.

3. The following documents, reports and/or information are requested. (List specifically.)

1 4. The reasons for the request are:
Further applicant saith not.

2
3 _____
Applicant

4 Subscribed and sworn to before me
5 this _____ day of _____, 19____
6

7 _____
Notary Public

8 My commission expires:
9 _____

10 ~~(h)~~ Any parent, child, guardian ad litem, party subpoenaed or
11 subject to an order of production or person who claims a privilege
12 or right of confidentiality may request in writing that the court
13 issuing the subpoena or order for production withdraw the subpoena,
14 subpoena duces tecum or order for production issued pursuant to
15 subsection ~~(f)~~. The request shall automatically stay the operation of
16 the subpoena, subpoena duces tecum or order for production and
17 the documents, reports or information requested shall not be deliv-
18 ered until the issuing court has held a hearing to determine if the
19 documents, reports or information are subject to the claimed priv-
20 ilege or right of confidentiality ~~or~~ it is in the best interests of the
21 child for the subpoena or order to produce ~~shall~~ be honored. The
22 request to withdraw shall be filed with the district court issuing the
23 subpoena or order at least 24 hours prior to the specified time and
24 date of delivery, excluding Saturdays, Sundays or holidays, and a
25 copy of the written request must be given to the person subpoenaed
26 or subject to the order for production at least 24 hours prior to the
27 specified time and date of delivery.

(f)

(d)

, and whether

to

[Dept. of Education suggestion]

28
29 Sec. 5. K.S.A. 1989 Supp. 38-1607 is hereby amended to read
30 as follows: 38-1607. (a) Official file. The official file of proceedings
31 pursuant to this code shall consist of the complaint, process, service
32 of process, orders, writs and journal entries reflecting hearings held
33 and judgments and decrees entered by the court. The official file
34 shall be kept separate from other records of the court. The official
35 file shall be open for public inspection as to any juvenile 16 or more
36 years of age at the time any act is alleged to have been committed.
37 The official file shall be privileged as to any juvenile less than 16
38 years of age at the time any act is alleged to have been committed
39 and shall not be disclosed directly or indirectly to anyone except:

- 40 (1) A judge of the district court and members of the staff of the
41 court designated by the judge;
42 (2) parties to the proceedings and their attorneys;
(3) a public or private agency or institution having custody of

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1 the juvenile under court order;

2 (4) law enforcement officers or county or district attorneys or
3 their staff when necessary for the discharge of their official duties;
4 and

5 (5) any other person when authorized by a court order, subject
6 to any conditions imposed by the order.

7 (b) *Social file.* Reports and information received by the court
8 other than the official file shall be privileged and open to inspection
9 only by attorneys for the parties or upon order of a judge of the
10 district court or an appellate court. The reports shall not be further
11 disclosed by the attorney without approval of the court or by being
12 presented as admissible evidence.

13 (c) *Preservation of records.* The Kansas state historical society
14 shall be allowed to take possession for preservation in the state
15 archives of any court records related to proceedings under the Kansas
16 juvenile offenders code whenever such records otherwise would be
17 destroyed. The Kansas state historical society shall make available
18 for public inspection any unexpunged docket entry or official file in
19 its custody concerning any juvenile 16 or more years of age at the
20 time an offense is alleged to have been committed by the juvenile.
21 No other such records in the custody of the Kansas state historical
22 society shall be disclosed directly or indirectly to anyone for 100
23 years after creation of the records, except as provided in subsections
24 (a) and (b). Pursuant to subsections (a)(5) and (b), a judge of the
25 district court may allow inspection for research purposes of any court
26 records in the custody of the Kansas state historical society related
27 to proceedings under the Kansas juvenile offenders code.

28 (d) *Relevant information, reports and records shall be made*
29 *available to the department of corrections upon request and a show-*
30 *ing that the former juvenile has been convicted of a crime and placed*
31 *in the custody of the secretary of the department of corrections.*

32 Sec. 6. K.S.A. 38-1608 is hereby amended to read as follows:
33 38-1608. (a) All records of law enforcement officers and agencies and
34 municipal courts concerning a public offense committed or alleged
35 to have been committed by a juvenile under 16 years of age shall
36 be kept readily distinguishable from criminal and other records and
37 shall not be disclosed to anyone except:

38 (1) The judge and members of the court staff designated by the
39 judge of a court having the juvenile before it in any proceedings;

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

41 (3) the department of social and rehabilitation services or the
42 officers of public institutions or agencies to whom the juvenile is
43 committed;

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

(5) the central repository, as defined by K.S.A. 22-4701 and amendments thereto, for use only as a part of the juvenile offender information system established under K.S.A. 38-1618 and amendments thereto; and

(6) any other person when authorized by a court order, subject to any conditions imposed by the order.

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

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

(2) a violation, by a person 16 or more years of age, of any provision of chapter 32 of the Kansas Statutes Annotated; or

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

(c) All records of law enforcement officers and agencies and municipal courts concerning a public offense committed or alleged to have been committed by a juvenile 16 or 17 years of age shall be subject to the same disclosure restrictions as the records of adults.

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

Sec. 7. K.S.A. 38-1609 is hereby amended to read as follows: 38-1609. (a) The diagnostic, treatment or medical records of any juvenile offender shall be privileged and shall not be disclosed except:

(1) Upon the written consent of the former juvenile or, if the juvenile offender is under 18 years of age, by the parent of the juvenile;

(2) upon a determination by the head of the treatment facility, who has the records, that disclosure is necessary for the further treatment of the juvenile offender;

(3) when any court having jurisdiction of the juvenile offender orders disclosure;

(4) when authorized by K.S.A. 38-1614 *and amendments thereto*;

or
(5) when requested orally or in writing by any attorney representing the juvenile offender, but the records shall not be further disclosed by the attorney unless approved by the court or presented as admissible evidence.

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1 (b) Willful violation of this section is a class C misdemeanor.

2 (c) Nothing in this section shall operate to extinguish any right
3 of a juvenile offender established by attorney-client, physician-pa-
4 tient, psychologist-client or social worker-client privileges.

5 (d) *Relevant information, reports and records shall be made*
6 *available to the department of corrections upon request and a show-*
7 *ing that the former juvenile has been convicted of a crime and placed*
8 *in the custody of the secretary of the department of corrections.*

9 Sec. 8. K.S.A. 38-1661 is hereby amended to read as follows:
10 38-1661. (a) Prior to a dispositional hearing, the court shall request
11 an investigation and report by a court services officer unless the
12 court finds that adequate and current information is available from
13 a previous investigation, report or other sources. Upon request of
14 the prosecuting attorney or the attorney for the respondent, the
15 court shall make available to the attorney the report of the inves-
16 tigation and shall allow the attorney a reasonable time to review the
17 report before ordering the disposition of the respondent.

18 (b) The court may direct that the investigation include the cir-
19 cumstances of the offense; the attitude of the complainant, victim
20 or the victim's family; and the record of juvenile offenses, the social
21 history and the present condition of the respondent. Except where
22 specifically prohibited by law, all local governmental *public and*
23 *private educational institutions* and state agencies shall furnish to
24 the officer conducting the predispositional investigation the records
25 the officer requests. If ordered by the court, the predispositional
26 investigation shall include a physical examination and mental ex-
27 amination of the respondent *if sufficient reports are not already*
28 *available to the investigating officer.* Predispositional investigations
29 shall contain other information prescribed by the court.

30 (c) At any time after the respondent has been adjudicated to be
31 a juvenile offender and prior to disposition, the judge ~~shall~~, at the
32 request of an interested party, *shall* hear additional evidence as to
33 proposals for reasonable and appropriate disposition of the case.

34 Sec. 9. K.S.A. 38-1662 is hereby amended to read as follows:
35 38-1662. (a) *Psychological or emotional.* Following an adjudication
36 under this code the court may order an evaluation and written report
37 of the psychological or emotional development or needs of the ju-
38 venile offender. The court may refer the juvenile offender to a state
39 institution for the evaluation if the secretary advises the court that
40 the facility is a suitable place to care for, treat or evaluate the juvenile
41 offender and that space is available. The expenses of transportation
42 to and from the state facility may be paid as a part of the expenses
3 of the proceedings. The juvenile offender may be referred to a mental

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health center or a qualified professional for the evaluation, and the expenses of the evaluation may be considered as expenses of the proceedings and assessed as provided in this code. If the court orders an evaluation as provided in this section, a parent of the juvenile offender shall have the right to obtain an independent evaluation at the expense of the parent.

(b) *Medical.* Following an adjudication under this code, the court may order an examination and report of the medical condition and needs of the juvenile offender who is the subject of the proceedings. The court may also order a report from any physician who has been attending the juvenile offender stating the diagnosis, condition and treatment afforded the juvenile offender.

order

(c) *Educational.* The court may request the chief administrative officer of the school which the juvenile offender attends or attended to provide to the court information that is readily available which the school officials feel would properly indicate the educational needs of the juvenile offender.

The order may direct that, if

~~if~~ the resources of the school permit, the school may conduct an educational needs assessment of the juvenile offender and send a report thereof to the court. The educational needs assessment may include a meeting involving any of the following: (1) The juvenile offender's parents, (2) the juvenile offender's teacher or teachers, (3) the school psychologist, (4) a school special services representative, and (5) a representative of the secretary, (6) the juvenile offender's C.A.S.A., (7) the juvenile offender's foster parents or legal guardian and (8) other persons that the chief administrative officer of the school, or the officer's designee, deems appropriate.

[Dept. of Education suggestion]

Sec. 10. K.S.A. 38-1514, 38-1608, 38-1609, 38-1661 and 38-1662 and K.S.A. 1989 Supp. 38-1507, 38-1523, 38-1523a and 38-1607 are hereby repealed.

Sec. 11. This act shall take effect and be in force from and after its publication in the statute book.