

Approved

3-25-92

Date

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MINUTES OF THE HOUSE COMMITTEE ON PUBLIC HEALTH AND WELFARE

The meeting was called to order by Carol H. Sader at  
Chairperson

12:30 a.m./p.m. on March 5, 1992 in room 423-S of the Capitol.

All members were present except:

Representative Flottman, excused

Committee staff present:

Emalene Correll, Research  
Bill Wolff, Research  
Norman Furse, Revisor  
Sue Hill, Committee Secretary

Conferees appearing before the committee:

Answering questions were:

Pat Johnson, Board of Nursing  
Ted Ayres, Kansas Board of Regents  
Ms. Crenshaw, Kansas Board of Regents

Chair called meeting to order drawing attention to Committee minutes.  
Rep. Wiard moved to approve minutes of February 20, 1992 as presented,  
seconded by Rep. Amos. No discussion. Motion carried.

Chair drew attention to discussion on bills previously heard by  
Committee.

HB 2702, HB 2796, HB 2965, HB 3070.

DISCUSSION BEGAN ON HB 2702.

A balloon copy, (a re-cut) of HB 2702 (see Attachment No. 1) was  
distributed to members. Mr. Furse, at the request of Chair, detailed  
proposed changes defining the changes section by section; policy issues  
were explained; and attention drawn to sections for hospice; review  
of statute for civil penalties. Mr. Furse then answered numerous  
questions.

Rep. Amos moved to amend HB 2702, per balloon amendments offered in  
Attachment No. 1, and to further amend on page 1, (c) after "10 days  
after" to insert, "the final decision of the agency on the matter"  
and insert "provisions of this section shall be subject to the  
Administrative Procedures Act." Motion seconded by Rep. Flower.  
Discussion on the motion to amend and the entire language in the balloon  
was held, i.e., procedures for persons failing to comply with  
regulations; due process language clarification for members. Mr. Furse  
had researched civil penalty law and drew attention to a complex  
document he held up for members to view. Vote taken. No further  
discussion. Motion carried.

Rep. Wiard moved to pass HB 2702 out favorably as amended, seconded  
by Rep. Grant. Discussion continued. Vote taken. Motion carried.

Rep. Scott agreed to carry HB 2702 on the floor of the House.

DISCUSSION BEGAN ON HB 2796.

Chair noted the subcommittee had worked on language in HB 2796 and  
drew attention to balloon provided. Chair then requested subcommittee  
Chair Rep. Bishop explain the proposed changes. (See Attachment No.2).

CONTINUATION SHEET

MINUTES OF THE HOUSE COMMITTEE ON PUBLIC HEALTH AND WELFARE,

room 423-S, Statehouse, at 12:30 a.m./p.m. on March 5, 1922

DISCUSSION CONTINUED ON HB 2796.

Rep. Bishop detailed changes proposed in the balloon and stated Mr. Furse had offered valuable help to the subcommittee made up of himself, Rep. White and Rep. Samuelson. He noted the inspecting agency was discussed since the subcommittee did not have the opportunity to meet again later and work out language in respect to the inspecting agency.

Rep. Samuelson and Rep. White both offered explanations of changes proposed that were suggested by numerous conferees and members. A lengthy discussion ensued. Rationale for the use of the word "Caution" was given; whether or not Kansas Board of Cosmetology or Ks. Department of Health/Environment would be given the authority for inspections.

Rep. Bishop moved to adopt the balloon recommendations on HB 2796, to include language the "Department of Health/Environment as the inspecting agency". Motion failed for lack of a second.

Rep. Samuelson moved to amend HB 2796 on page 1, line 15 to name the inspection of tanning salons authority to the Kansas Board of Cosmetology who shall adopt rules and regulations relating to the safe function of the tanning devices. Rep. Amos seconded the motion.

Discussion continued in regard to concerns expressed, i.e., parental consent language; some felt the Board of Cosmetology hadn't done a responsible job with other inspections; some felt the last year the Board of Cosmetology had changed a great deal and was doing a more effective job and should be given credit for that effort; some concerned there wasn't adequate staff to conduct inspections; fees were discussed; should the equipment be inspected by an outside agency and the salon inspectors verify that those inspections had been completed. Vote taken. Motion carried.

Rep. Bishop recorded as "NO" vote.

Further discussion ensued, i.e., perhaps an exclusion is necessary for the ultra-violet ray devices physicians use in their offices; an increasing number of inspections are being carried out by private industry, i.e., gasoline pump inspections, scales inspections. The state cannot be expected to purchase equipment and hire staff to carry out all inspection requirements.

Rep. White moved to amend HB 2796 by deleting section (5) and to renumber remaining sections. Vote taken. Chair in doubt. Show of hands indicated 8 in favor, 7 against. Motion carried.

Rep. Wiard wanted it recorded that today he and Rep. Neufeld agree on discussions on HB 2796.

Rep. Praeger moved to pass HB 2796 out favorably as amended, seconded by Rep. White. No discussion. Vote taken, Chair in doubt. Show of hands indicated 10 in favor, 5 against. Motion carried.

Rep. Bishop, Rep. Neufeld, Rep. White all recorded as voting "No" on HB 2796.

CONTINUATION SHEET

MINUTES OF THE HOUSE COMMITTEE ON PUBLIC HEALTH AND WELFARE,  
room 423-S, Statehouse, at 12:30 a.m./p.m. on March 5, 1992

DISCUSSION BEGAN ON HB 2965.

Chair drew attention to HB 2965. It was noted a balloon had been provided to members, (see Attachment No. 3).

Chair requested briefing on the balloon. Mr. Furse noted the amendatory language provided was that on the recommendation of Rep. Wagnon on behalf of her constituent, i.e., to delete language in lines 38-40 as indicated in brackets on page 1. On page two, language bracketed in lines 1-6. He explained the only change in current law would be on page 1, line 38.

Rep. Samuelson moved to amend HB 2965 per recommendations in the balloon by deleting language in brackets on pages 1 and 2. Motion seconded by Rep. Cozine. No discussion. Vote taken. Motion carried.

Rep. Samuelson moved to pass HB 2965 favorably as amended, seconded by Rep. Cozine. No discussion. Motion carried.

DISCUSSION BEGAN ON HB 2964.

Chair asked staff to give an explanation and background on HB 2964 since time constraints yesterday did not allow for a briefing.

Ms. Correll gave a detailed explanation of HB 2964, pointing out the scholarships are a 50-50 program. The student must have a sponsor from a hospital, or a licensed physician. She detailed scholarship requirements available, i.e., 100 for rural areas, 50 for Licensed Practical Nurses, (LPSs) and 100 slots up for grabs. It was noted "rural area" is defined in this act as a county with a population of 20,000 and under.

Rep. Scott made a conceptional motion to amend HB 2964 to increase the total for LPN's scholarships if the RNs aren't filled, seconded by Rep. Amos. Discussion began.

Mr. Ayres, Board of Regents general counsel, was invited to answer questions and make comments in regard to his conversation with Mr. Furse since their meeting yesterday. Mr. Ayres stated there is no problem with not having enough slots for the LPNs, the shortage appears only to be with the RNs.

At this point Rep. Scott and Rep. Amos withdrew their motion.

Rep. Samuelson moved to conceptually amend HB 2964 by allowing the shifting of numbers of scholarships if they are not all filled by original categories set out in the act. Motion seconded by Rep. Grant. Lengthy discussion ensued, i.e., some felt it is a waste to have unused scholarships if some slots are not taken advantage of; some viewed the scholarships are more difficult to fill in rural areas since there are not as many foundations and organizations that can afford to sponsor these scholarships. In the urban areas it is less difficult to obtain sponsors. The problem in the rural areas, is the 50-50 match. Vote taken. Motion carried.

CONTINUATION SHEET

MINUTES OF THE HOUSE COMMITTEE ON PUBLIC HEALTH AND WELFARE,  
room 423-S Statehouse, at 12:30 /a.m./p.m. on March 5, 1992

DISCUSSION CONTINUED ON HB 2964.

Rep. Neufeld moved to amend HB 2964 by lowering sponsorships for rural and health facilities of 100 beds or less with the local portion being \$1000. Motion seconded by Rep. Scott. No discussion. Motion carried.

Discussion continued. Ms. Crenshaw, Director of Student Financial Assistance, Kansas Board of Regents, and Mr. Ayres both answered questions.

It was stated, once this flexibility is opened up, the program could result in an administrative nightmare and the focus or intital intent of the program will be lost. It was noted there are hardship situations in some rural areas; an agreement on the definition of "underserved" would be necessary; transfers of sponsors was discussed and a three party agreement must be made clear. At this point, recommended deferring further discussion until March 6th.

DISCUSSION BEGAN ON HB 3070.

Mr. Furse noted the language on civil fines indicated on page 5, lines 39-40 provide for fines after proper notice. He explained this procedure, and that of subpoena power indicated in New Sec. 7.

Pat Johnson, Kansas Board of Nursing, answered questions and gave rationale for the Board's request for broadened subpoena power. She noted there are no cases pending. The Board just felt it best to have this authority broadened.

Mr. Furse noted a new section (7) (a) as new authority for the Board of Nursing.

Rep. Amos moved to amend HB 3070 by striking language on subpoena power, and substitute language on page 6 in (7) (b) 1, Rep. Scott seconded.

Discussion continued. Motion failed.

Rep. White moved to amend HB 3070 on page 6 and 7 to strike new section 7, and to renumber sections thereafter, seconded by Rep. Wiard. Discussion continued with in-put from Ms. Johnson and information on current statute from Mr. Furse. Vote taken, motion carried.

Rep. Scott moved to pass HB 3070 out favorably as amended, seconded by Rep. Neufeld. No discussion. Motion carried.

DISCUSSION BEGAN ON HB 2761.

Chair noted HB 2761 had passed out of Committee on a tie vote. Chair noted there had been additional discussion, and she informed committee members of agreed-to amendatory language that would keep the authority to audit with the Secretary of State's office but providing random audits, up to 25 per year, at a cost not to exceed \$100 per day shall be done by the Secaretery of State's office. Chair noted this has been suggested to her as a possible floor amendment. She asked if there was any objection to this proposed language. There was none.

Chair adjourned the meeting at 3:15 p.m.



Proposed Committee Report

Be Amended:

On page 1, preceding line 14, by inserting the following:

"New Section 1. (a) As used in this section:

(1) "AIDS" means the disease acquired immune deficiency syndrome.

(2) "HIV" means the human immunodeficiency virus.

*new* (b) Licensed adult care homes, as defined in K.S.A. 39-923, and amendments thereto, licensed home health agencies and providers of hospice services, who receive federal or state money from any federal or state agency, shall not refuse to admit or treat individuals who have tested positive for HIV infection or have been diagnosed as having AIDS solely on the basis that an individual has tested positive for HIV infection or has been diagnosed as having AIDS.

(c) The secretary of health and environment, upon finding a violation of subsection (b), shall assess a civil penalty of not to exceed \$2,500 against the violator. The civil penalty shall be due and payable within 10 days after <sup>the final decision of the agency on the matter</sup> written notice of assessment. All penalties assessed and collected under this section shall be remitted to the state treasurer. (Upon receipt thereof, the state treasurer shall deposit the entire amount in the state treasury to the credit of the state general fund.) *new technical lang.*

Sec. 2. K.S.A. 39-931 is hereby amended to read as follows:

*is not applicable to sec. 1.* 39-931. (a) Whenever the licensing agency finds a substantial failure to comply with the requirements, standards or rules and regulations established under this act or that repeated violations of subsection (b) of section 1 and amendments thereto have occurred and one or more orders prohibiting new admissions under K.S.A. 1991 Supp. 39-953a and amendments thereto have been issued because of a violation of subsection (b) of section 1 and amendments thereto or that a receiver has been appointed under K.S.A. 39-958 and amendments thereto, ~~it~~ the licensing agency

*PKW  
3-5-92  
Attn #1.*

shall make an order denying, suspending or revoking the license after notice and a hearing in accordance with the provisions of the Kansas administrative procedure act.

(b) Any applicant or licensee who is aggrieved by the order may appeal such order in accordance with the provisions of the act for judicial review and civil enforcement of agency actions.

*new* {  
 Sec. 3. K.S.A. 1991 Supp. 39-953a is hereby amended to read as follows: 39-953a. (a) At any time the secretary of health and environment initiates any action concerning an adult care home in which it is alleged that there has been a substantial failure to comply with the requirements, standards or rules and regulations established under the adult care home licensure act, that conditions exist in the adult care home which are life threatening or endangering to the residents of the adult care home, that the adult care home is insolvent, or that the adult care home has deficiencies which significantly and adversely affect the health, safety, nutrition or sanitation of the adult care home residents or that the adult care home has violated subsection (b) of section 1 and amendments thereto, the secretary may issue an order, pursuant to the emergency proceedings provided for under the Kansas administrative procedure act, prohibiting any new admissions into the adult care home until further determination by the secretary. This remedy granted to the secretary is in addition to any other statutory authority the secretary has relating to the licensure and operation of adult care homes and is not <sup>to</sup> be construed to limit any of the powers and duties of the secretary under the adult care home licensure act.

(b) This section shall be part of and supplemental to the adult care home licensure act.

Sec. 4. K.S.A. 1991 Supp. 65-5108 is hereby amended to read as follows: 65-5108. (a) The secretary shall refuse to issue or shall suspend or shall revoke the license of any home health agency for failure to substantially comply with any provision of this act or with any rule and regulation or standard of the secretary adopted under the provisions of this act or for

*pkw*  
*3-5-92*  
*Attn #1*  
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repeated violations of subsection (b) of section 1 and amendments thereto or for obtaining the license by means of fraud, misrepresentation or concealment of material facts.

(b) Any home health agency which has been refused a license or which has had its license revoked or suspended by the secretary may request a hearing which shall be conducted in accordance with the provisions of the Kansas administrative procedure act.

Sec. 5. K.S.A. 39-931 and K.S.A. 1991 Supp. 39-953a and 65-5108 are hereby repealed.

Sec. 6. This act shall take effect and be in force from and after its publication in the statute book.";

Also on page 1, by striking all of lines 14 to 39, inclusive;

Also on page 1, in the title, line 11, preceding "repealing" by inserting the following: "K.S.A. 1991 Supp. 39-953a and 65-5108 and"; also in line 11, by striking "section" and inserting in lieu thereof "sections";

*Pd/W*  
*3-5-92*  
*Attn #1.*  
*pg 3-3*

# HOUSE BILL No. 2796

By Committee on Public Health and Welfare

1-28

Subcommittee Markup

*Rep Bishop  
Chair of Sub*

*PA 6/2  
3-5-92  
Attn #2  
pg 174*

8 AN ACT concerning tanning facilities; requiring licenses for operation  
9 thereof; providing for administration and inspection by the state  
10 board of cosmetology; prohibiting certain acts and providing pen-  
11 alties for violations.  
12

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

14 Section 1. (a) As used in this act:

15 (1) "Authorized agent" means an employee of the state board of  
16 cosmetology designated by the board to enforce this act.

17 (2) "Board" means the state board of cosmetology.

18 (3) "Phototherapy device" means equipment that emits ultraviolet  
19 radiation that is used in the treatment of disease or other medical  
20 use.

21 (4) "Tanning device" means equipment that emits electromag-  
22 netic radiation with wavelengths in the air that is used for tanning  
23 of human skin and includes any accompanying items incidental to  
24 operation of the tanning device.

25 (5) "Tanning facility" means any facility, whether independent or  
26 part of a salon, health spa or any other facility, which provides access  
27 to tanning devices.

28 (b) This act does not apply to use of a phototherapy device by  
29 or under supervision of a person licensed to practice medicine and  
30 surgery.

31 Sec. 2. (a) A tanning facility shall give each customer a written  
32 statement warning that:

33 ~~(1)~~ Failure to use the eye protection provided to the customer (a)  
34 by the tanning facility may result in damage to the eyes;

35 ~~(2)~~ overexposure to ultraviolet radiation causes burns; (b)

36 ~~(3)~~ repeated exposure to ultraviolet radiation may result in pre- (c)  
37 mature aging of the skin and skin cancer;

38 ~~(4)~~ abnormal skin sensitivity or burning may be caused by re- (d)  
39 actions of ultraviolet radiation to certain: (A) Foods; (B) cosmetics;  
40 or (C) medications, including: (i) Tranquilizers; (ii) diuretics; (iii)  
antibiotics; (iv) high blood pressure medicines; or (v) birth control  
pills; and

43 ~~(5)~~ any person taking a prescription or over-the-counter drug (e)

Subcommittee recommends secretary of health and environment administer act instead of board of cosmetology. State board of cosmetology would be changed to secretary of health and environment throughout the act.

*(1) change back to Bd of Cosmetology*

but shall not include private residences if access to tanning devices is provided without charge

*P. Bell  
3-5-92  
Attn #2*

*DHW*  
*3-5-92*  
*Attn #2*  
*Pg 274*

1 should consult a physician before using a tanning device.  
2 **(b)** Compliance with the notice requirements does not affect the  
3 liability of a tanning facility operator or a manufacturer of a tanning  
4 device.]

5 Sec. 3. (a) A tanning facility shall post a warning sign in a con-  
6 spicuous location where it is readily visible by persons entering the  
7 establishment. The sign shall have dimensions of no less than 36  
8 inches to a side] and shall contain the following wording:

eight inches by 10 inches

**DANGER: ULTRAVIOLET RADIATION**

CAUTION

10 Repeated exposure to ultraviolet radiation may cause skin damage  
11 characterized by wrinkling, dryness, fragility, bruising and skin  
12 cancer.

13 Failure to use protective eyewear may result in severe burns or  
14 permanent injury to the eyes.

15 Medications or cosmetics may increase your sensitivity to ultra-  
16 violet radiation. Consult a physician before using a tanning device  
17 if you are using medications, have a history of skin problems or  
18 believe you are especially sensitive to sunlight. Pregnant women or  
19 women taking oral contraceptives who use this product may develop  
20 discolored skin.

21 **IF YOU DO NOT TAN IN THE SUN, YOU WILL NOT TAN**  
22 **FROM USE OF AN ULTRAVIOLET DEVICE OR SUNLAMP**

23 (b) A tanning facility shall post a warning sign, one for each  
24 tanning device, in a conspicuous location that is readily visible to a  
25 person about to use the device. The sign shall have dimensions of  
26 not less than 24 inches to a side] and shall contain the following  
27 language:

eight inches by 10 inches

**DANGER: ULTRAVIOLET RADIATION**

CAUTION

29 1. Follow the manufacturer's instructions for use of this device.  
30 2. Avoid too frequent or lengthy exposure. As with natural sun-  
31 light, exposure can cause serious eye and skin injuries and allergic  
32 reactions. Repeated exposure may cause skin cancer.

33 3. Wear protective eyewear. Failure to use protective eyewear  
34 may result in severe burns or permanent damage to the eyes.

35 4. Do no sunbathe before or after exposure to ultraviolet  
36 radiation.

37 5. Medications or cosmetics may increase your sensitivity to ul-  
38 traviolet radiation. Consult a physician before using a sunlamp if you  
39 are using medication, have a history of skin problems or believe you  
are especially sensitive to sunlight. Pregnant women or women using  
oral contraceptives who use this product may develop discolored  
skin.

*DHW*  
*3-5-92*  
*Attn #2*  
*Pg 274*

*White to delete sec 5*

**IF YOU DO NOT TAN IN THE SUN, YOU WILL NOT  
TAN FROM USE OF THIS DEVICE**

Sec. 4. A tanning facility shall not claim or distribute promotional materials that claim that using a tanning device is safe or free from risk.

~~Sec. 5. A tanning facility shall not allow any person less than 18 years of age to use a tanning device.~~

Sec. 6. (a) A tanning facility shall have an operator present during operating hours. The operator must be sufficiently knowledgeable in the correct operation of the tanning devices used at the facility that the operator may inform and assist each user in the proper use of the tanning devices.

(b) Before each use of a tanning device, the operator shall provide the customer with protective eyewear that protects the eyes from ultraviolet radiation and allows adequate vision to maintain balance. The operator may not allow a person to use a tanning device if that person does not use the protective eyewear. The operator shall also show each customer how to use suitable physical aids, such as handrails and markings on the floor, to maintain proper exposure distance as recommended by the manufacturer of the tanning device.

(c) The tanning facility shall use a timer with an accuracy of at least plus or minus 10% of any selected time interval. The facility shall limit the exposure time of a user on a tanning device to the maximum exposure time recommended by the manufacturer. The facility shall control the interior temperature of a tanning device so that it may not exceed 100 degrees Fahrenheit.

Sec. 7. (a) The board may adopt rules and regulations to implement this act.

(b) An authorized agent shall have access at all reasonable times to any tanning facility to inspect the facility to determine compliance with this act.

(c) If an authorized agent finds that a person has violated, or is violating or threatening to violate this act and that the violation or threat of violation creates an immediate threat to the health and safety of the public, the authorized agent may petition the district court for a temporary restraining order to restrain the violation or threat of violation.

(d) If a person has violated, or is violating or threatening to violate this act, the board, after a hearing in accordance with the administrative procedure act, may suspend the license of a tanning facility until such time that the tanning facility can demonstrate to the board that it has corrected deficiencies and is in compliance with this act and rules and regulations adopted pursuant to this act.

Sec. 5. Before any person between 14 and 18 years of age uses a tanning device, a tanning facility shall secure a statement signed in the presence of the tanning facility owner or operator by the minor's parent or legal guardian stating that the parent or legal guardian has read and understood the warnings given, consents to the minor's use of a tanning device and agrees that the minor will use the protective eyewear that the tanning facility provides. A person under 14 years of age shall be accompanied by a parent or legal guardian (when) using a tanning device.

trained in the correct operation of the tanning devices

which meets the standards of 21 CFR 1040.20

*PNKLL  
3-5-92  
Attn # 2  
Pg 384*

*operator provide evidence equip has passed inspection has been done*

*rules reg adopted under rule*

*PNKLL  
3-5-92  
Attn # 2  
Pg 384*

*P Newell  
3-5-92  
Attn # 2  
Pg 4 of 4*

(e) On application for injunctive relief and a finding that a person is violating or threatening to violate this act, the district court shall grant any injunctive relief warranted by the facts.

Sec. 8. (a) On and after January 1, 1993, a person may not operate a tanning facility without a valid license issued by the board.

(b) The license shall be displayed in a conspicuous place in the tanning facility.

(c) On application, on forms provided by the board, and on receipt of the appropriate fee, a license shall be renewed by the board.

(d) The board may adopt a system under which licenses expire on various dates during the year. As part of this system the annual renewal fee may be prorated on a monthly basis to reflect the actual number of months the license is valid.

(e) The board may revoke, cancel, suspend or place on probation a license to operate a tanning facility for any of the following reasons:

(1) A failure to pay a license fee or an annual renewal fee for a license;

(2) the applicant obtained or attempted to obtain a license by fraud or deception;

(3) a violation of any of the provisions of this act; or

(4) a violation of a regulation of the board adopted under this act.

(f) The board shall establish appropriate licensure and renewal fees by adoption of rules and regulations. not to exceed \$100 per year for each tanning facility, *Bd of Cosmetology*

Sec. 9. Any person who operates an unlicensed tanning facility in this state or knowingly violates this act or any rules and regulations adopted under this act shall be guilty of a class C misdemeanor. The secretary of health and environment may establish the fees based upon the number of beds used for tanning which the facility maintains.

Sec. 10. This act shall take effect and be in force from and after its publication in the statute book.

*deposited  
fees in Cosmetology  
fee fund.*

*Based on # of beds  
w sub-committee suggestion.*

*minor  
equip  
fees*

*no inspection fee?*

*P Newell  
3-5-92  
Attn # 2  
Pg 4 of 4*

HOUSE BILL No. 2965

By Representative Wagon

2-12

Referred  
3-5-92  
Attom # 3

8 AN ACT concerning children; relating to suspected abuse or neglect;  
9 amending K.S.A. 1991 Supp. 38-1523 and repealing the existing  
10 section.

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

12 Section 1. K.S.A. 1991 Supp. 38-1523 is hereby amended to read  
13 as follows: 38-1523. (a) *Investigation for child abuse or neglect.* The  
14 state department of social and rehabilitation services and law en-  
15 forcement officers shall have the duty to receive and investigate  
16 reports of child abuse or neglect for the purpose of determining  
17 whether the report is valid and whether action is required to protect  
18 the child from further abuse or neglect. If the department and such  
19 officers determine that no action is necessary to protect the child  
20 but that a criminal prosecution should be considered, the department  
21 and such law enforcement officers shall make a report of the case  
22 to the appropriate law enforcement agency.

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

33 (c) *Investigation of certain cases.* Suspected child abuse or ne-  
34 glect which occurs in an institution operated by the secretary shall  
35 be investigated by an agent under the direction of the attorney  
36 general. Any other suspected child abuse or neglect by persons  
37 employed by ~~or of children of persons employed by~~ the state de-  
38 partment of social and rehabilitation services ~~if such abuse or neglect~~  
39 ~~is alleged against the employee of the state department of social and~~  
40 ~~rehabilitation services~~ shall be investigated by the appropriate law  
41 enforcement agency under the direction of the appropriate county  
42 or district attorney, and not by the state department of social and  
43

1 rehabilitation services. ~~(If suspected abuse or neglect of a child of a~~  
2 ~~person who is an employee of the state department of social and~~  
3 ~~rehabilitation services is alleged against any individual, agency or~~  
4 ~~facility other than the employee of the state department of social~~  
5 ~~and rehabilitation services, the state department of social and re-~~  
6 ~~habilitation services shall be responsible for the investigation.)~~

7 (d) *Coordination of investigations by county or district attorney.*

8 If a dispute develops between agencies investigating a reported case  
9 of child abuse or neglect, the appropriate county or district attorney  
10 shall take charge of, direct and coordinate the investigation.

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

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

19 (g) *Cooperation between school personnel and investigative agen-*  
20 *cies.* Elementary and secondary schools, the state department of  
21 social and rehabilitation services and law enforcement agencies shall  
22 cooperate with each other in the investigation of reports of suspected  
23 child abuse or neglect. Administrators of elementary and secondary  
24 schools shall provide to employees of the state department of social  
25 and rehabilitation services and law enforcement agencies access to  
26 a child in a setting on school premises determined by school per-  
27 sonnel for the purpose of the investigation of a report of suspected  
28 child abuse or neglect. To the extent that safety and practical con-  
29 siderations allow, law enforcement officers on school premises for  
30 the purpose of investigating a report of suspected child abuse or  
31 neglect shall not be in uniform.

32 (h) The secretary or the secretary's designee or a law enforcement  
33 officer may request disclosure of documents, reports or information  
34 in regard to a child, who is the subject of a report of abuse or  
35 neglect, by making a written verified application to the district court.  
36 Upon a finding by the court there is probable cause to believe the  
37 information sought will assist in the investigation of a report of child  
38 abuse or neglect, the court may issue a subpoena, subpoena duces  
39 tecum or an order for the production of the requested documents,  
40 reports or information and directing the documents, reports or in-  
41 formation to be delivered to the applicant at a specific time, date  
42 and place.

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

Added  
3-5-93  
Attorney  
272