

HOUSE BILL No. 2088

By Committee on Federal and State Affairs

1-21

1 AN ACT concerning children and minors; relating to procedures in
2 investigations of child abuse or neglect; amending K.S.A. 2020 Supp.
3 38-2226 and repealing the existing section.
4

5 WHEREAS, The amendments made to the provisions of K.S.A. 2020
6 Supp. 38-2226 by this act shall be known as Adrian's law.

7 Now, therefore:

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

9 Section 1. K.S.A. 2020 Supp. 38-2226 is hereby amended to read as
10 follows: 38-2226. (a) *Investigation for child abuse or neglect.* The
11 secretary and law enforcement officers shall have the duty to receive and
12 investigate reports of child abuse or neglect for the purpose of determining
13 whether the report is valid and whether action is required to protect a
14 child. Any person or agency which maintains records relating to the
15 involved child which are relevant to any investigation conducted by the
16 secretary or law enforcement agency under this code shall provide the
17 secretary or law enforcement agency with the necessary records to assist in
18 investigations. In order to provide such records, the person or agency
19 maintaining the records shall receive from the secretary or law
20 enforcement: (1) A written request for information; and (2) a written notice
21 that the investigation is being conducted by the secretary or law
22 enforcement. If the secretary and such officers determine that no action is
23 necessary to protect the child but that a criminal prosecution should be
24 considered, such law enforcement officers shall make a report of the case
25 to the appropriate law enforcement agency.

26 (b) *Joint investigations.* When a report of child abuse or neglect
27 indicates: (1) That there is serious physical harm to, serious deterioration
28 of or sexual abuse of the child; and (2) that action may be required to
29 protect the child, the investigation shall be conducted as a joint effort
30 between the secretary and the appropriate law enforcement agency or
31 agencies, with a free exchange of information between them pursuant to
32 K.S.A. 2020 Supp. 38-2210, and amendments thereto. If a statement of a
33 suspect is obtained by either agency, a copy of the statement shall be
34 provided to the other.

35 (c) *Investigation of certain cases.* Suspected child abuse or neglect
36 which occurs in an institution operated by the Kansas department of

1 corrections shall be investigated by the attorney general or secretary of
2 corrections. Any suspected child abuse or neglect in an institution operated
3 by the Kansas department for aging and disability services, or by persons
4 employed by the Kansas department for aging and disability services or
5 the Kansas department for children and families, or of children of persons
6 employed by either department, shall be investigated by the appropriate
7 law enforcement agency.

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

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

16 (f) *Cooperation between agencies.* Law enforcement agencies and the
17 secretary shall assist each other in taking action which is necessary to
18 protect a child regardless of which agency conducted the initial
19 investigation.

20 (g) *Cooperation between school personnel and investigative*
21 *agencies.* (1) Educational institutions, the secretary and law enforcement
22 agencies shall cooperate with each other in the investigation of reports of
23 suspected child abuse or neglect. The secretary and law enforcement
24 agencies shall have access to a child in a setting designated by school
25 personnel on the premises of an educational institution. Attendance at an
26 interview conducted on such premises shall be at the discretion of the
27 agency conducting the interview, giving consideration to the best interests
28 of the child. To the extent that safety and practical considerations allow,
29 law enforcement officers on such premises for the purpose of investigating
30 a report of suspected child abuse or neglect shall not be in uniform.

31 (2) The secretary or a law enforcement officer may request the
32 presence of school personnel during an interview if the secretary or officer
33 determines that the presence of such person might provide comfort to the
34 child or facilitate the investigation.

35 (h) *Visual observation required.* *As part of any investigation*
36 *conducted pursuant to this section, the secretary or the law enforcement*
37 *agency that is conducting the investigation shall visually observe the child*
38 *who is the alleged victim of abuse or neglect. In the case of a joint*
39 *investigation conducted pursuant to subsection (b), the secretary and the*
40 *investigating law enforcement agency shall both visually observe the child*
41 *who is the alleged victim of abuse or neglect. All investigation reports*
42 *shall include the date, time and location of any visual observation of a*
43 *child that is required by this subsection.*

- 1 Sec. 2. K.S.A. 2020 Supp. 38-2226 is hereby repealed.
- 2 Sec. 3. This act shall take effect and be in force from and after its
- 3 publication in the statute book.