

HOUSE BILL No. 2093

By Committee on Child Welfare and Foster Care

Requested by Tess Ramirez on behalf of Protecting KS Children from Sexual Predators

1-24

1 AN ACT concerning childhood abuse or neglect; authorizing victims of
2 childhood abuse or neglect to access records related to substantiated
3 reports or investigations of abuse or neglect; extending the time to file
4 civil actions for recovery of damages caused by childhood sexual
5 abuse; amending K.S.A. 2024 Supp. 38-2212 and 60-523 and repealing
6 the existing sections.

7
8 *Be it enacted by the Legislature of the State of Kansas:*

9 Section 1. K.S.A. 2024 Supp. 38-2212 is hereby amended to read as
10 follows: 38-2212. (a) *Principle of appropriate access.* Information
11 contained in confidential agency records concerning a child alleged or
12 adjudicated to be in need of care may be disclosed as provided in this
13 section and shall be disclosed as provided in ~~subsection~~ *subsections (e)*
14 *and (g)*. Disclosure shall in all cases be guided by the principle of
15 providing access only to persons or entities with a need for information
16 that is directly related to achieving the purposes of this code.

17 (b) *Free exchange of information.* Pursuant to K.S.A. 38-2210, and
18 amendments thereto, the secretary and juvenile intake and assessment
19 agencies shall participate in the free exchange of information concerning a
20 child who is alleged or adjudicated to be in need of care.

21 (c) *Necessary access.* The following persons or entities shall have
22 access to information from agency records. Access shall be limited to
23 information reasonably necessary to carry out their lawful responsibilities,
24 to maintain their personal safety and the personal safety of individuals in
25 their care, or to educate, diagnose, treat, care for or protect a child alleged
26 to be in need of care. Information authorized to be disclosed pursuant to
27 this subsection shall not contain information that identifies a reporter of a
28 child who is alleged or adjudicated to be a child in need of care.

29 (1) A child named in the report or records, a guardian ad litem
30 appointed for the child and the child's attorney.

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

33 (3) A court-appointed special advocate for a child, a citizen review
34 board or other advocate that reports to the court.

- 1 (4) A person licensed to practice the healing arts or mental health
2 profession in order to diagnose, care for, treat or supervise:
- 3 (A) A child whom such service provider reasonably suspects may be
4 in need of care;
- 5 (B) a member of the child's family; or
- 6 (C) a person who allegedly abused or neglected the child.
- 7 (5) A person or entity licensed or registered by the secretary of health
8 and environment or approved by the secretary for children and families to
9 care for, treat or supervise a child in need of care.
- 10 (6) A coroner or medical examiner when such person is determining
11 the cause of death of a child.
- 12 (7) The state child death review board established under K.S.A. 22a-
13 243, and amendments thereto.
- 14 (8) An attorney for a private party who files a petition pursuant to
15 K.S.A. 38-2233(b), and amendments thereto.
- 16 (9) A foster parent, prospective foster parent, permanent custodian,
17 prospective permanent custodian, adoptive parent or prospective adoptive
18 parent. In order to assist such persons in making an informed decision
19 regarding acceptance of a particular child, to help the family anticipate
20 problems that may occur during the child's placement, and to help the
21 family meet the needs of the child in a constructive manner, the secretary
22 shall seek and shall provide the following information to such persons as
23 the information becomes available to the secretary:
- 24 (A) Strengths, needs and general behavior of the child;
- 25 (B) circumstances that necessitated placement;
- 26 (C) information about the child's family and the child's relationship to
27 the family that may affect the placement;
- 28 (D) important life experiences and relationships that may affect the
29 child's feelings, behavior, attitudes or adjustment;
- 30 (E) medical history of the child, including third-party coverage that
31 may be available to the child; and
- 32 (F) education history, to include present grade placement, special
33 strengths and weaknesses.
- 34 (10) The state protection and advocacy agency as provided by K.S.A.
35 65-5603(a)(10) or 74-5515(a)(2)(A) and (B), and amendments thereto.
- 36 (11) Any educational institution to the extent necessary to enable the
37 educational institution to provide the safest possible environment for its
38 pupils and employees.
- 39 (12) Any educator to the extent necessary to enable the educator to
40 protect the personal safety of the educator and the educator's pupils.
- 41 (13) The office of the child advocate pursuant to the child advocate
42 act.
- 43 (14) Any other federal, state or local government executive branch

1 entity or any agent of such entity, having a need for such information in
2 order to carry out such entity's responsibilities under the law to protect
3 children from abuse and neglect.

4 (d) *Specified access.* The following persons or entities shall have
5 access to information contained in agency records as specified.
6 Information authorized to be disclosed pursuant to this subsection shall not
7 contain information that identifies a reporter of a child who is alleged or
8 adjudicated to be a child in need of care.

9 (1) Information from confidential agency records of the Kansas
10 department for children and families, a law enforcement agency or any
11 juvenile intake and assessment worker of a child alleged or adjudicated to
12 be in need of care shall be available to members of the standing house or
13 senate committee on judiciary, house committee on corrections and
14 juvenile justice, house committee on child welfare and foster care, house
15 committee on appropriations, senate committee on ways and means,
16 legislative post audit committee and any joint committee with authority to
17 consider children's and families' issues, when carrying out such member's
18 or committee's official functions in accordance with K.S.A. 75-4319, and
19 amendments thereto, in a closed or executive meeting. Except in limited
20 conditions established by $\frac{2}{3}$ of the members of such committee, records
21 and reports received by the committee shall not be further disclosed.
22 Unauthorized disclosure may subject such member to discipline or censure
23 from the house of representatives or senate. The secretary for children and
24 families shall not summarize the outcome of department actions regarding
25 a child alleged to be a child in need of care in information available to
26 members of such committees.

27 (2) The secretary for children and families may summarize the
28 outcome of department actions regarding a child alleged to be a child in
29 need of care to a person having made such report.

30 (3) Information from confidential reports or records of a child alleged
31 or adjudicated to be a child in need of care may be disclosed to the public
32 when:

33 (A) The individuals involved or their representatives have given
34 express written consent; or

35 (B) the investigation of the abuse or neglect of the child or the filing
36 of a petition alleging a child to be in need of care has become public
37 knowledge, except that the agency shall limit disclosure to confirmation of
38 procedural details relating to the handling of the case by professionals.

39 (e) *Law enforcement access.* The secretary shall disclose confidential
40 agency records of a child alleged or adjudicated to be a child in need of
41 care, as described in K.S.A. 38-2209, and amendments thereto, to the law
42 enforcement agency investigating the alleged or substantiated report or
43 investigation of abuse or neglect, regardless of the disposition of such

1 report or investigation. Such records shall include, but not be limited to,
2 any information regarding such report or investigation, records of past
3 reports or investigations concerning such child and such child's siblings
4 and the perpetrator or alleged perpetrator and the name and contact
5 information of the reporter or persons alleging abuse or neglect and case
6 managers, investigators or contracting entity employees assigned to or
7 investigating such report. Such records shall only be used for the purposes
8 of investigating the alleged or substantiated report or investigation of
9 abuse or neglect.

10 (f) *Court order.* Notwithstanding the provisions of this section, a
11 court of competent jurisdiction, after in camera inspection, may order
12 disclosure of confidential agency records pursuant to a determination that
13 the disclosure is in the best interests of the child who is the subject of the
14 reports or that the records are necessary for the proceedings of the court.
15 The court shall specify the terms of disclosure and impose appropriate
16 limitations.

17 (g) *Authorized access.* *A person shall have access to information*
18 *from agency records related to a substantiated report or investigation of*
19 *abuse or neglect if such person is 18 years of age or older and was the*
20 *child who is the subject of such substantiated report or investigation.*
21 *Information authorized to be disclosed pursuant to this subsection shall*
22 *not contain information that identifies any person who reported the abuse*
23 *or neglect.*

24 (h) (1) Notwithstanding any other provision of law to the contrary,
25 except as provided in paragraph (6), in the event that child abuse or
26 neglect results in a child fatality or near fatality, reports or records of a
27 child alleged or adjudicated to be in need of care received by the secretary,
28 a law enforcement agency or any juvenile intake and assessment worker
29 shall become a public record and subject to disclosure pursuant to K.S.A.
30 45-215, and amendments thereto.

31 (2) Within seven days of receipt of a request in accordance with the
32 procedures adopted under K.S.A. 45-220, and amendments thereto, the
33 secretary shall notify any affected individual that an open records request
34 has been made concerning such records. The secretary or any affected
35 individual may file a motion requesting the court to prevent disclosure of
36 such record or report, or any select portion thereof. Notice of the filing of
37 such motion shall be provided to all parties requesting the records or
38 reports, and such party or parties shall have a right to hearing, upon
39 request, prior to the entry of any order on such motion. If the affected
40 individual does not file such motion within seven days of notification, and
41 the secretary has not filed a motion, the secretary shall release the reports
42 or records. If such motion is filed, the court shall consider the effect such
43 disclosure may have upon an ongoing criminal investigation, a pending

1 prosecution, or the privacy of the child, if living, or the child's siblings,
2 parents or guardians, and the public's interest in the disclosure of such
3 records or reports. The court shall make written findings on the record
4 justifying the closing of the records and shall provide a copy of the journal
5 entry to the affected parties and the individual requesting disclosure
6 pursuant to the Kansas open records act, K.S.A. 45-215 et seq., and
7 amendments thereto.

8 (3) Notwithstanding the provisions of paragraph (2), in the event that
9 child abuse or neglect results in a child fatality or criminal charges are
10 filed with a court alleging that a person caused a child fatality, the
11 secretary shall release the following information in response to an open
12 records request made pursuant to the Kansas open records act, within
13 seven business days of receipt of such request, as allowed by applicable
14 law:

15 (A) Age and sex of the child;

16 (B) date of the fatality;

17 (C) a summary of any previous reports of abuse or neglect received
18 by the secretary involving the child, along with the findings of such
19 reports; and

20 (D) any department recommended services provided to the child.

21 (4) Notwithstanding the provisions of paragraph (2), in the event that
22 a child fatality occurs while such child was in the custody of the secretary
23 for children and families, the secretary shall release the following
24 information in response to an open records request made pursuant to the
25 Kansas open records act, within seven business days of receipt of such
26 request, as allowed by applicable law:

27 (A) Age and sex of the child;

28 (B) date of the fatality; and

29 (C) a summary of the facts surrounding the death of the child.

30 (5) For reports or records requested pursuant to this subsection, the
31 time limitations specified in this subsection shall control to the extent of
32 any inconsistency between this subsection and K.S.A. 45-218, and
33 amendments thereto. As used in this section, "near fatality" means an act
34 that, as certified by a person licensed to practice medicine and surgery,
35 places the child in serious or critical condition.

36 (6) Nothing in this subsection shall allow the disclosure of reports,
37 records or documents concerning the child and such child's biological
38 parents that were created prior to such child's adoption. Nothing herein is
39 intended to require that an otherwise privileged communication lose its
40 privileged character.

41 Sec. 2. K.S.A. 2024 Supp. 60-523 is hereby amended to read as
42 follows: 60-523. (a) No action for recovery of damages for an injury or
43 illness suffered as a result of childhood sexual abuse shall be commenced

1 more than ~~13~~ 37 years after the date the victim attains 18 years of age or
2 more than three years after the date of a criminal conviction for a crime
3 described in subsection (b) related to such childhood sexual abuse,
4 whichever occurs later.

5 (b) As used in this section:

6 (1) "Injury or illness" includes psychological injury or illness, whether
7 or not accompanied by physical injury or illness.

8 (2) "Childhood sexual abuse" means any act committed against the
9 person that occurred when the person was under the age of 18 years and
10 that would have been a violation of any of the following:

11 (A) Rape as defined in K.S.A. 21-3502, prior to its repeal, or K.S.A.
12 21-5503, and amendments thereto;

13 (B) Indecent liberties with a child as defined in K.S.A. 21-3503, prior
14 to its repeal, or K.S.A. 21-5506(a), and amendments thereto;

15 (C) aggravated indecent liberties with a child as defined in K.S.A. 21-
16 3504, prior to its repeal, or K.S.A. 21-5506(b), and amendments thereto;

17 (D) criminal sodomy as defined in K.S.A. 21-3505(a)(2) and (a)(3),
18 prior to its repeal, or K.S.A. 21-5504(a)(3) and (a)(4), and amendments
19 thereto;

20 (E) aggravated criminal sodomy as defined in K.S.A. 21-3506, prior
21 to its repeal, or K.S.A. 21-5504(b), and amendments thereto;

22 (F) enticement of a child as defined in K.S.A. 21-3509, prior to its
23 repeal;

24 (G) indecent solicitation of a child as defined in K.S.A. 21-3510,
25 prior to its repeal, or K.S.A. 21-5508(a), and amendments thereto;

26 (H) aggravated indecent solicitation of a child as defined in K.S.A.
27 21-3511, prior to its repeal, or K.S.A. 21-5508(b), and amendments
28 thereto;

29 (I) sexual exploitation of a child as defined in K.S.A. 21-3516, prior
30 to its repeal, or K.S.A. 21-5510, and amendments thereto;

31 (J) aggravated sexual battery as defined in K.S.A. 21-3518, prior to
32 its repeal, or K.S.A. 21-5505(b), and amendments thereto;

33 (K) aggravated incest as defined in K.S.A. 21-3603, prior to its
34 repeal, or K.S.A. 21-5604(b), and amendments thereto;

35 (L) aggravated human trafficking as defined in K.S.A. 21-3447, prior
36 to its repeal, or K.S.A. 21-5426(b), and amendments thereto, if committed
37 in whole or in part for the purpose of the sexual gratification of the
38 defendant or another;

39 (M) internet trading in child pornography or aggravated internet
40 trading in child pornography as defined in K.S.A. 21-5514, and
41 amendments thereto;

42 (N) commercial sexual exploitation of a child as defined in K.S.A.
43 21-6422, and amendments thereto; or

1 (O) any prior laws of this state of similar effect at the time the act was
2 committed.

3 (c) This section shall be applicable to any action commenced on or
4 after July 1, 1992, including any action that would be barred by
5 application of the period of limitation applicable prior to July 1, 1992.

6 Sec. 3. K.S.A. 2024 Supp. 38-2212 and 60-523 are hereby repealed.

7 Sec. 4. This act shall take effect and be in force from and after its
8 publication in the statute book.