

## HOUSE BILL No. 2207

By Committee on Child Welfare and Foster Care

Requested by Representative Howerton

2-3

1 AN ACT concerning records; relating to the revised Kansas code for care  
2 of children; permitting a parent access to records when such parent's  
3 child is the subject of an investigation of abuse or neglect or a child in  
4 need of care proceeding; authorizing victims of childhood abuse or  
5 neglect to access records related to substantiated reports or  
6 investigations of abuse or neglect; amending K.S.A. 2024 Supp. 38-  
7 2211, 38-2212 and 38-2213 and repealing the existing sections.

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

10 Section 1. K.S.A. 2024 Supp. 38-2211 is hereby amended to read as  
11 follows: 38-2211. (a) *Access to the official file.* The following persons or  
12 entities shall have access to the official file of a child in need of care  
13 proceeding pursuant to this code:

14 (1) The court having jurisdiction over the proceedings, including the  
15 presiding judge and any court personnel designated by the judge.

16 (2) *A parent of the child who is the subject of the investigation or*  
17 *proceeding or such parent's legal representative.*

18 (3) The parties to the proceedings and their attorneys.

19 ~~(3)~~(4) The guardian ad litem for a child who is the subject of the  
20 proceeding.

21 ~~(4)~~(5) A court appointed special advocate for a child who is the  
22 subject of the proceeding or a paid staff member of a court appointed  
23 special advocate program.

24 ~~(5)~~(6) Any individual, or any public or private agency or institution,  
25 having custody of the child under court order or providing educational,  
26 medical or mental health services to the child or any placement provider or  
27 potential placement provider as determined by the secretary or court  
28 services officer.

29 ~~(6)~~(7) A citizen review board.

30 ~~(7)~~(8) The secretary of corrections or any agents designated by the  
31 secretary of corrections.

32 ~~(8)~~(9) Any county or district attorney from another jurisdiction with a  
33 pending child in need of care matter regarding any of the same parties.

34 ~~(9)~~(10) The office of the child advocate pursuant to the child  
35 advocate act.

1       ~~(10)~~(11) Any other person when authorized by a court order, subject  
2 to any conditions imposed by the order.

3       ~~(11)~~(12) An investigating law enforcement agency.

4       (b) *Access to the social file.* The following persons or entities shall  
5 have access to the social file of a child in need of care proceeding pursuant  
6 to this code:

7       (1) The court having jurisdiction over the proceeding, including the  
8 presiding judge and any court personnel designated by the judge.

9       (2) *A parent of the child who is the subject of the investigation or*  
10 *proceeding or such parent's legal representative.*

11       (3) The attorney for a party to the proceeding or the person or persons  
12 designated by an Indian tribe that is a party.

13       ~~(3)~~(4) The guardian ad litem for a child who is the subject of the  
14 proceeding.

15       ~~(4)~~(5) A court appointed special advocate for a child who is the  
16 subject of the proceeding or a paid staff member of a court appointed  
17 special advocate program.

18       ~~(5)~~(6) A citizen review board.

19       ~~(6)~~(7) The secretary.

20       ~~(7)~~(8) The secretary of corrections or any agents designated by the  
21 secretary of corrections.

22       ~~(8)~~(9) Any county or district attorney from another jurisdiction with a  
23 pending child in need of care matter regarding any of the same parties or  
24 interested parties.

25       ~~(9)~~(10) The office of the child advocate pursuant to the child  
26 advocate act.

27       ~~(10)~~(11) Any other person when authorized by a court order, subject  
28 to any conditions imposed by the order.

29       ~~(11)~~(12) An investigating law enforcement agency.

30       (c) *Preservation of records.* The Kansas state historical society shall  
31 be allowed to take possession for preservation in the state archives of any  
32 court records related to proceedings under the Kansas code for care of  
33 children whenever such records otherwise would be destroyed. No such  
34 records in the custody of the Kansas state historical society shall be  
35 disclosed directly or indirectly to anyone for 70 years after creation of the  
36 records, except as provided in subsections (a) and (b). Pursuant to  
37 subsections-~~(a)~~(10) *(a)*(11) and-~~(b)~~(10) *(b)*(11), a judge of the district court  
38 may allow inspection for research purposes of any court records in the  
39 custody of the Kansas state historical society related to proceedings under  
40 the Kansas code for care of children.

41       Sec. 2. K.S.A. 2024 Supp. 38-2212 is hereby amended to read as  
42 follows: 38-2212. (a) *Principle of appropriate access.* Information  
43 contained in confidential agency records concerning a child alleged or

1 adjudicated to be in need of care may be disclosed as provided in this  
2 section and shall be disclosed as provided in ~~subsection~~ *subsections (e), (f)*  
3 *and (g)*. Disclosure shall in all cases be guided by the principle of  
4 providing access only to persons or entities with a need for information  
5 that is directly related to achieving the purposes of this code.

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

10 (c) *Necessary access.* The following persons or entities shall have  
11 access to information from agency records. Access shall be limited to  
12 information reasonably necessary to carry out their lawful responsibilities,  
13 to maintain their personal safety and the personal safety of individuals in  
14 their care, or to educate, diagnose, treat, care for or protect a child alleged  
15 to be in need of care. Information authorized to be disclosed pursuant to  
16 this subsection shall not contain information that identifies a reporter of a  
17 child who is alleged or adjudicated to be a child in need of care.

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

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

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

24 (4) A person licensed to ~~practice by the state board of healing arts or~~  
25 ~~mental health profession~~ *the behavioral sciences regulatory board* in order  
26 to diagnose, care for, treat or supervise:

27 (A) A child whom such service provider reasonably suspects may be  
28 in need of care;

29 (B) a member of the child's family; or

30 (C) a person who allegedly abused or neglected the child.

31 (5) A person or entity licensed or registered by the secretary of health  
32 and environment or approved by the secretary for children and families to  
33 care for, treat or supervise a child in need of care.

34 (6) A coroner or medical examiner when such person is determining  
35 the cause of death of a child.

36 (7) The state child death review board established under K.S.A. 22a-  
37 243, and amendments thereto.

38 (8) An attorney for a private party who files a petition pursuant to  
39 K.S.A. 38-2233(b), and amendments thereto.

40 (9) A foster parent, prospective foster parent, permanent custodian,  
41 prospective permanent custodian, adoptive parent or prospective adoptive  
42 parent. In order to assist such persons in making an informed decision  
43 regarding acceptance of a particular child, to help the family anticipate

1 problems that may occur during the child's placement, and to help the  
2 family meet the needs of the child in a constructive manner, the secretary  
3 shall seek and shall provide the following information to such persons as  
4 the information becomes available to the secretary:

5 (A) Strengths, needs and general behavior of the child;

6 (B) circumstances that necessitated placement;

7 (C) information about the child's family and the child's relationship to  
8 the family that may affect the placement;

9 (D) important life experiences and relationships that may affect the  
10 child's feelings, behavior, attitudes or adjustment;

11 (E) medical history of the child, including third-party coverage that  
12 may be available to the child; and

13 (F) education history, to include present grade placement, special  
14 strengths and weaknesses.

15 (10) The state protection and advocacy agency as provided by K.S.A.  
16 65-5603(a)(10) or 74-5515(a)(2)(A) and (B), and amendments thereto.

17 (11) Any educational institution to the extent necessary to enable the  
18 educational institution to provide the safest possible environment for its  
19 pupils and employees.

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

22 (13) The office of the child advocate pursuant to the child advocate  
23 act.

24 (14) Any other federal, state or local government executive branch  
25 entity or any agent of such entity, having a need for such information in  
26 order to carry out such entity's responsibilities under the law to protect  
27 children from abuse and neglect.

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

33 (1) Information from confidential agency records of the Kansas  
34 department for children and families, a law enforcement agency or any  
35 juvenile intake and assessment worker of a child alleged or adjudicated to  
36 be in need of care shall be available to members of the standing house or  
37 senate committee on judiciary, house committee on corrections and  
38 juvenile justice, house committee on child welfare and foster care, house  
39 committee on appropriations, senate committee on ways and means,  
40 legislative post audit committee and any joint committee with authority to  
41 consider children's and families' issues, when carrying out such member's  
42 or committee's official functions in accordance with K.S.A. 75-4319, and  
43 amendments thereto, in a closed or executive meeting. Except in limited

1 conditions established by  $\frac{2}{3}$  of the members of such committee, records  
2 and reports received by the committee shall not be further disclosed.  
3 Unauthorized disclosure may subject such member to discipline or censure  
4 from the house of representatives or senate. The secretary for children and  
5 families shall not summarize the outcome of department actions regarding  
6 a child alleged to be a child in need of care in information available to  
7 members of such committees.

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

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

14 (A) The individuals involved or their representatives have given  
15 express written consent; or

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

20 (e) *Law enforcement access.* The secretary shall disclose confidential  
21 agency records of a child alleged or adjudicated to be a child in need of  
22 care, as described in K.S.A. 38-2209, and amendments thereto, to the law  
23 enforcement agency investigating the alleged or substantiated report or  
24 investigation of abuse or neglect, regardless of the disposition of such  
25 report or investigation. Such records shall include, but not be limited to,  
26 any information regarding such report or investigation, records of past  
27 reports or investigations concerning such child and such child's siblings  
28 and the perpetrator or alleged perpetrator and the name and contact  
29 information of the reporter or persons alleging abuse or neglect and case  
30 managers, investigators or contracting entity employees assigned to or  
31 investigating such report. Such records shall only be used for the purposes  
32 of investigating the alleged or substantiated report or investigation of  
33 abuse or neglect.

34 (f) *Parent Access.* *A parent of a child alleged or adjudicated to be in*  
35 *need of care shall have access to information in records held by the*  
36 *secretary of children and families or any entities contracting with the*  
37 *secretary to provide services to such child. A parent may make a request*  
38 *for such information and shall be provided such information within three*  
39 *days of the date such request was made. Information authorized to be*  
40 *disclosed pursuant to this subsection shall not contain information that*  
41 *identifies any person who reported the abuse or neglect.*

42 (g) *Authorized access.* *A person shall have access to information*  
43 *from agency records related to a substantiated report or investigation of*

1 *abuse or neglect if such person is 18 years of age or older and was the*  
2 *child who is the subject of such substantiated report or investigation.*  
3 *Information authorized to be disclosed pursuant to this subsection shall*  
4 *not contain information that identifies any person who reported the abuse*  
5 *or neglect.*

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

13 ~~(g)~~ ~~(+)~~(i) (1) Notwithstanding any other provision of law to the  
14 contrary, except as provided in paragraph (6), in the event that child abuse  
15 or neglect results in a child fatality or near fatality, reports or records of a  
16 child alleged or adjudicated to be in need of care received by the secretary,  
17 a law enforcement agency or any juvenile intake and assessment worker  
18 shall become a public record and subject to disclosure pursuant to K.S.A.  
19 45-215, and amendments thereto.

20 (2) Within seven days of receipt of a request in accordance with the  
21 procedures adopted under K.S.A. 45-220, and amendments thereto, the  
22 secretary shall notify any affected individual that an open records request  
23 has been made concerning such records. The secretary or any affected  
24 individual may file a motion requesting the court to prevent disclosure of  
25 such record or report, or any select portion thereof. Notice of the filing of  
26 such motion shall be provided to all parties requesting the records or  
27 reports, and such party or parties shall have a right to hearing, upon  
28 request, prior to the entry of any order on such motion. If the affected  
29 individual does not file such motion within seven days of notification, and  
30 the secretary has not filed a motion, the secretary shall release the reports  
31 or records. If such motion is filed, the court shall consider the effect such  
32 disclosure may have upon an ongoing criminal investigation, a pending  
33 prosecution, or the privacy of the child, if living, or the child's siblings,  
34 parents or guardians, and the public's interest in the disclosure of such  
35 records or reports. The court shall make written findings on the record  
36 justifying the closing of the records and shall provide a copy of the journal  
37 entry to the affected parties and the individual requesting disclosure  
38 pursuant to the Kansas open records act, K.S.A. 45-215 et seq., and  
39 amendments thereto.

40 (3) Notwithstanding the provisions of paragraph (2), in the event that  
41 child abuse or neglect results in a child fatality or criminal charges are  
42 filed with a court alleging that a person caused a child fatality, the  
43 secretary shall release the following information in response to an open

1 records request made pursuant to the Kansas open records act, within  
2 seven business days of receipt of such request, as allowed by applicable  
3 law:

- 4 (A) Age and sex of the child;
- 5 (B) date of the fatality;
- 6 (C) a summary of any previous reports of abuse or neglect received  
7 by the secretary involving the child, along with the findings of such  
8 reports; and
- 9 (D) any department recommended services provided to the child.

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

- 16 (A) Age and sex of the child;
- 17 (B) date of the fatality; and
- 18 (C) a summary of the facts surrounding the death of the child.

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

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

30 Sec. 3. K.S.A. 2024 Supp. 38-2213 is hereby amended to read as  
31 follows: 38-2213. (a) *Principle of limited disclosure.* Information  
32 contained in confidential law enforcement records concerning a child  
33 alleged or adjudicated to be in need of care may be disclosed as provided  
34 in this section. Disclosure shall in all cases be guided by the principle of  
35 providing access only to persons or entities with a need for information  
36 that is directly related to achieving the purposes of this code.

37 (b) *Free exchange of information.* Pursuant to K.S.A. 38-2210, and  
38 amendments thereto, a law enforcement agency shall participate in the free  
39 exchange of information concerning a child who is alleged or adjudicated  
40 to be in need of care.

41 (c) *Access to information in law enforcement records.* In order to  
42 discharge their official duties, the following persons or entities shall have  
43 access to confidential law enforcement records concerning a child alleged

1 or adjudicated to be in need of care.

2 (1) The court having jurisdiction over the proceedings, including the  
3 presiding judge and any court personnel designated by the judge.

4 (2) The secretary.

5 (3) *A parent of such child or such parent's legal representative.*

6 (4) The secretary of corrections.

7 ~~(4)~~(5) Law enforcement officers or county or district attorneys or  
8 their staff.

9 ~~(5)~~(6) Any juvenile intake and assessment worker.

10 ~~(6)~~(7) Members of a court-appointed multidisciplinary team.

11 ~~(7)~~(8) The office of the child advocate pursuant to the child advocate  
12 act.

13 ~~(8)~~(9) Any other federal, state or local government executive branch  
14 entity, or any agent of such entity, having a need for such information in  
15 order to carry out such entity's responsibilities under law to protect  
16 children from abuse and neglect.

17 ~~(9)~~(10) Persons or entities allowed access pursuant to K.S.A. 38-  
18 2212~~(f)~~(h), and amendments thereto.

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

27 (1) Any individual, or public or private agency authorized by a  
28 properly constituted authority to diagnose, care for, treat or supervise a  
29 child who is the subject of a report or record of child abuse or neglect,  
30 including physicians, psychiatrists, nurses, nurse practitioners,  
31 psychologists, licensed social workers, child development specialists,  
32 physician assistants, community mental health workers, alcohol and drug  
33 abuse counselors, and licensed or registered child care providers.

34 (2) School administrators shall have access to but shall not copy law  
35 enforcement records and may disclose information to teachers,  
36 paraprofessionals and other school personnel as necessary to meet the  
37 educational needs of the child or to protect the safety of students and  
38 school employees.

39 (3) The department of health and environment or persons authorized  
40 by the department of health and environment pursuant to K.S.A. 65-512,  
41 and amendments thereto, for the purposes of carrying out responsibilities  
42 relating to licensure or registration of child care providers as required by  
43 article 5 of chapter 65 of the Kansas Statutes Annotated, and amendments



1 thereto.

2 (e) *Legislative access.* Information from law enforcement records of a  
3 child alleged or adjudicated to be in need of care shall be available to  
4 members of the standing house or senate committee on judiciary, house  
5 committee on corrections and juvenile justice, house committee on  
6 appropriations, senate committee on ways and means, legislative post audit  
7 committee and any joint committee with authority to consider children's  
8 and families' issues, when carrying out such member's or committee's  
9 official functions in accordance with K.S.A. 75-4319, and amendments  
10 thereto, in a closed or executive meeting. Except in limited conditions  
11 established by  $\frac{2}{3}$  of the members of such committee, records and reports  
12 received by the committee shall not be further disclosed. Unauthorized  
13 disclosure may subject such member to discipline or censure from the  
14 house of representatives or senate.

15 (f) *Court order.* Notwithstanding the provisions of this section, a  
16 court of competent jurisdiction, after in camera inspection, may order  
17 disclosure of confidential law enforcement records pursuant to a  
18 determination that the disclosure is in the best interests of the child who is  
19 the subject of the reports or that the records are necessary for the  
20 proceedings of the court and otherwise admissible as evidence. The court  
21 shall specify the terms of disclosure and impose appropriate limitations.

22 (g) *Parent access.* A parent of a child alleged or adjudicated to be in  
23 need of care shall have access to information from law enforcement  
24 records upon a request to the law enforcement agency. Such agency shall  
25 provide the requesting parent such information within three days of the  
26 date such request was made. Information authorized to be disclosed  
27 pursuant to this subsection shall not contain information that identifies  
28 any person who reported the abuse or neglect.

29 Sec. 4. K.S.A. 2024 Supp. 38-2211, 38-2212 and 38-2213 are hereby  
30 repealed.

31 Sec. 5. This act shall take effect and be in force from and after its  
32 publication in the statute book.