

HOUSE BILL No. 2396

By Committee on Appropriations

3-22

1 AN ACT abolishing the commission on judicial performance; amending
2 K.S.A. 2010 Supp. 20-367, 25-4169a, 38-2211, 38-2309, 59-2122, 59-
3 2979, 60-3104 and 60-31a04 and repealing the existing sections; also
4 repealing K.S.A. 20-3203 and 20-3208 and K.S.A. 2010 Supp. 20-
5 3201, 20-3202, 20-3204, 20-3205 and 20-3206.

6
7 *Be it enacted by the Legislature of the State of Kansas:*

8 New Section 1. Upon the effective date of this act, the director of
9 accounts and reports is directed to transfer all moneys in the judicial
10 performance fund to the state general fund. Upon the effective date of this
11 act, all liabilities of the judicial performance fund existing prior to such
12 effective date are hereby imposed on the state general fund. The judicial
13 performance fund is hereby abolished.

14 Sec. 2. K.S.A. 2010 Supp. 20-367 is hereby amended to read as
15 follows: 20-367. (a) On and after July 1, ~~2009~~ 2011 through June 30, 2013,
16 of the remittance of the balance of docket fees received by the state
17 treasurer from clerks of the district court pursuant to subsection (g) of
18 K.S.A. 20-362, and amendments thereto, the state treasurer shall deposit
19 and credit:

- 20 (1) ~~3.05% to the judicial performance fund;~~
21 ~~(2)~~ 4.24% to the access to justice fund;
22 ~~(3)~~(2) 2.35% to the juvenile detention facilities fund;
23 ~~(4)~~(3) 1.81% to the judicial branch education fund;
24 ~~(5)~~(4) .48% to the crime victims assistance fund;
25 ~~(6)~~(5) 2.31% to the protection from abuse fund;
26 ~~(7)~~(6) 3.66% to the judiciary technology fund;
27 ~~(8)~~(7) .29% to the dispute resolution fund;
28 ~~(9)~~(8) 1.07% to the Kansas juvenile delinquency prevention trust
29 fund;
30 ~~(10)~~(9) .18% to the permanent families account in the family and
31 children investment fund;
32 ~~(11)~~(10) 1.27% to the trauma fund;
33 ~~(12)~~(11) .96% to the judicial council fund;
34 ~~(13)~~(12) .58% to the child exchange and visitation centers fund;
35 ~~(14)~~(13) 15.54% to the judicial branch nonjudicial salary adjustment
36 fund;

- 1 ~~(15)~~(14) 15.37% to the judicial branch nonjudicial salary initiative
- 2 fund; and
- 3 ~~(16)~~(15) the balance to the state general fund.
- 4 (b) On and after July 1, 2013, of the remittance of the balance of
- 5 docket fees received by the state treasurer from clerks of the district court
- 6 pursuant to subsection (g) of K.S.A. 20-362, and amendments thereto, the
- 7 state treasurer shall deposit and credit:
- 8 (1) 4.37% to the access to justice fund;
- 9 (2) 2.42% to the juvenile detention facilities fund;
- 10 (3) 1.87% to the judicial branch education fund;
- 11 (4) .50% to the crime victims assistance fund;
- 12 (5) 2.38% to the protection from abuse fund;
- 13 (6) 3.78% to the judiciary technology fund;
- 14 (7) .30% to the dispute resolution fund;
- 15 (8) 1.10% to the Kansas juvenile delinquency prevention trust fund;
- 16 (9) .19% to the permanent families account in the family and children
- 17 investment fund;
- 18 (10) 1.31% to the trauma fund;
- 19 (11) .99% to the judicial council fund;
- 20 (12) .60% to the child exchange and visitation centers fund;
- 21 (13) 16.03% to the judicial branch nonjudicial salary adjustment
- 22 fund;
- 23 (14) 15.85% to the judicial branch nonjudicial salary initiative fund;
- 24 and
- 25 (15) the balance to the state general fund.

26 Sec. 3. K.S.A. 2010 Supp. 25-4169a is hereby amended to read as
 27 follows: 25-4169a. (a) (1) No officer or employee of the state of Kansas,
 28 or any municipality, shall use or authorize the use of public funds or public
 29 vehicles, machinery, equipment or supplies of any such governmental
 30 agency or the time of any officer or employee of any such governmental
 31 agency, for which the officer or employee is compensated by such
 32 governmental agency, to expressly advocate the nomination, election or
 33 defeat of a clearly identified candidate to state office or local office. The
 34 provisions of this section prohibiting the use of time of any officer or
 35 employee for such purposes shall not apply to an incumbent officer
 36 campaigning for nomination or reelection to a succeeding term to such
 37 office or to members of the personal staff of any elected officer. ~~The~~
 38 ~~provisions of this section shall not apply to the statutory duties of the~~
 39 ~~commission on judicial performance pursuant to article 32 of chapter 20 of~~
 40 ~~the Kansas Statutes Annotated, and amendments thereto.~~

41 (2) Except as otherwise provided in this section, no municipality shall
 42 permit or allow any person to distribute, or cause to be distributed, within
 43 any building or other structure owned, leased or rented by such

1 municipality any brochure, flier, political fact sheet or other document
2 which expressly advocates the nomination, election or defeat of a clearly
3 identified candidate for state or local office unless each candidate for such
4 state or local office is permitted or allowed to do so in the same manner.

5 (3) For the purposes of this subsection, the term municipality shall
6 have the meaning ascribed to it in K.S.A. 12-105a, and amendments
7 thereto.

8 (b) Any person violating the provisions of this section shall be guilty
9 of a class C misdemeanor.

10 Sec. 4. K.S.A. 2010 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) The parties to the proceedings and their attorneys.

17 (3) The guardian *ad litem* for a child who is the subject of the
18 proceeding.

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

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

27 (6) A citizen review board.

28 (7) The commissioner of juvenile justice or any agents designated by
29 the commissioner.

30 (8) Any other person when authorized by a court order, subject to any
31 conditions imposed by the order.

32 ~~(9) The commission on judicial performance in the discharge of the~~
33 ~~commission's duties pursuant to article 32 of chapter 20 of the Kansas~~
34 ~~Statutes Annotated, and amendments thereto.~~

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

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

40 (2) The attorney for a party to the proceeding or the person or persons
41 designated by an Indian tribe that is a party.

42 (3) The guardian *ad litem* for a child who is the subject of the
43 proceeding.

1 (4) A court appointed special advocate for a child who is the subject
2 of the proceeding or a paid staff member of a court appointed special
3 advocate program.

4 (5) A citizen review board.

5 (6) The secretary.

6 (7) The commissioner of juvenile justice or any agents designated by
7 the commissioner.

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

10 (c) *Preservation of records.* The Kansas state historical society shall
11 be allowed to take possession for preservation in the state archives of any
12 court records related to proceedings under the Kansas code for care of
13 children whenever such records otherwise would be destroyed. No such
14 records in the custody of the Kansas state historical society shall be
15 disclosed directly or indirectly to anyone for 70 years after creation of the
16 records, except as provided in subsections (a) and (b). Pursuant to
17 subsections (a)(8) and (b)(8), a judge of the district court may allow
18 inspection for research purposes of any court records in the custody of the
19 Kansas state historical society related to proceedings under the Kansas
20 code for care of children.

21 Sec. 5. K.S.A. 2010 Supp. 38-2309 is hereby amended to read as
22 follows: 38-2309. (a) *Official file.* The official file of proceedings pursuant
23 to this code shall consist of the complaint, process, service of process,
24 orders, writs and journal entries reflecting hearings held, judgments and
25 decrees entered by the court. The official file shall be kept separate from
26 other records of the court.

27 (b) The official file shall be open for public inspection, unless the
28 judge determines that opening the official file for public inspection is not
29 in the best interests of a juvenile who is less than 14 years of age.
30 Information identifying victims and alleged victims of sex offenses, as
31 defined in article 35 of chapter 21 of the Kansas Statutes Annotated, *prior*
32 *to their repeal, or sections 65 through 77 or 229 through 231 of chapter*
33 *136 of the 2010 Session Laws of Kansas*, and amendments thereto, shall
34 not be disclosed or open to public inspection under any circumstances.
35 Nothing in this section shall prohibit the victim or alleged victim of any
36 sex offense from voluntarily disclosing such victim's identity. An official
37 file closed pursuant to this section and information identifying the victim
38 or alleged victim of any sex offense shall be disclosed only to the
39 following:

40 (1) A judge of the district court and members of the staff of the court
41 designated by the judge;

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

43 (3) any individual or any public or private agency or institution: (A)

- 1 Having custody of the juvenile under court order; or (B) providing
- 2 educational, medical or mental health services to the juvenile;
- 3 (4) the juvenile's court appointed special advocate;
- 4 (5) any placement provider or potential placement provider as
- 5 determined by the commissioner or court services officer;
- 6 (6) law enforcement officers or county or district attorneys, or their
- 7 staff, when necessary for the discharge of their official duties;
- 8 (7) the Kansas racing commission, upon written request of the
- 9 commission chairperson, for the purpose provided by K.S.A. 74-8804, and
- 10 amendments thereto, except that information identifying the victim or
- 11 alleged victim of any sex offense shall not be disclosed pursuant to this
- 12 subsection;
- 13 (8) juvenile intake and assessment workers;
- 14 (9) the commissioner; *and*
- 15 (10) any other person when authorized by a court order, subject to
- 16 any conditions imposed by the order; ~~and~~
- 17 ~~(11) the commission on judicial performance in the discharge of the~~
- 18 ~~commission's duties pursuant to article 32 of chapter 20 of the Kansas~~
- 19 ~~Statutes Annotated, and amendments thereto.~~
- 20 (c) *Social file.* Reports and information received by the court, other
- 21 than the official file, shall be privileged and open to inspection only by
- 22 attorneys for the parties, juvenile intake and assessment workers, court
- 23 appointed special advocates, juvenile community corrections officers, the
- 24 juvenile's guardian ad litem, if any, or upon order of a judge of the district
- 25 court or appellate court. The reports shall not be further disclosed without
- 26 approval of the court or by being presented as admissible evidence.
- 27 (d) *Preservation of records.* The Kansas state historical society shall
- 28 be allowed to take possession for preservation in the state archives of any
- 29 court records related to proceedings under the Kansas juvenile justice code
- 30 or the revised Kansas juvenile justice code whenever such records
- 31 otherwise would be destroyed. The Kansas state historical society shall
- 32 make available for public inspection any unexpunged docket entry or
- 33 official file in its custody concerning any juvenile 14 or more years of age
- 34 at the time an offense is alleged to have been committed by the juvenile.
- 35 No other such records in the custody of the Kansas state historical society
- 36 shall be disclosed directly or indirectly to anyone for 70 years after
- 37 creation of the records, except as provided in subsections (b) and (c). A
- 38 judge of the district court may allow inspection for research purposes of
- 39 any court records in the custody of the Kansas state historical society
- 40 related to proceedings under the Kansas juvenile justice code or the
- 41 revised Kansas juvenile justice code.
- 42 (e) Relevant information, reports and records, shall be made available
- 43 to the department of corrections upon request, and a showing that the

1 former juvenile has been convicted of a crime and placed in the custody of
2 the secretary of corrections.

3 Sec. 6. K.S.A. 2010 Supp. 59-2122 is hereby amended to read as
4 follows: 59-2122. (a) The files and records of the court in adoption
5 proceedings shall not be open to inspection or copy by persons other than
6 the parties in interest and their attorneys, representatives of the state
7 department of social and rehabilitation services, ~~and the commission on~~
8 ~~judicial performance in the discharge of the commission's duties pursuant~~
9 ~~to article 32 of chapter 20 of the Kansas Statutes Annotated, and~~
10 ~~amendments thereto~~, except upon an order of the court expressly
11 permitting the same. As used in this section, "parties in interest" shall not
12 include genetic parents once a decree of adoption is entered.

13 (b) The department of social and rehabilitation services may contact
14 the adoptive parents of the minor child or the adopted adult at the request
15 of the genetic parents in the event of a health or medical need. The
16 department of social and rehabilitation services may contact the adopted
17 adult at the request of the genetic parents for any reason. Identifying
18 information shall not be shared with the genetic parents without the
19 permission of the adoptive parents of the minor child or the adopted adult.
20 The department of social and rehabilitation services may contact the
21 genetic parents at the request of the adoptive parents of the minor child or
22 the adopted adult in the event of a health or medical need. The department
23 of social and rehabilitation services may contact the genetic parents at the
24 request of the adopted adult for any reason.

25 Sec. 7. K.S.A. 2010 Supp. 59-2979 is hereby amended to read as
26 follows: 59-2979. (a) The district court records, and any treatment records
27 or medical records of any patient or former patient that are in the
28 possession of any district court or treatment facility shall be privileged and
29 shall not be disclosed except:

30 (1) Upon the written consent of (A) the patient or former patient, if an
31 adult who has no legal guardian; (B) the patient's or former patient's legal
32 guardian, if one has been appointed; or (C) a parent, if the patient or
33 former patient is under 18 years of age, except that a patient or former
34 patient who is 14 or more years of age and who was voluntarily admitted
35 upon their own application made pursuant to subsection (b)(2)(B) of
36 K.S.A. 59-2949 and amendments thereto shall have capacity to consent to
37 release of their records without parental consent. The head of any
38 treatment facility who has the records may refuse to disclose portions of
39 such records if the head of the treatment facility states in writing that such
40 disclosure will be injurious to the welfare of the patient or former patient.

41 (2) Upon the sole consent of the head of the treatment facility who
42 has the records if the head of the treatment facility makes a written
43 determination that such disclosure is necessary for the treatment of the

1 patient or former patient.

2 (3) To any state or national accreditation agency or for a scholarly
3 study, but the head of the treatment facility shall require, before such
4 disclosure is made, a pledge from any state or national accreditation
5 agency or scholarly investigator that such agency or investigator will not
6 disclose the name of any patient or former patient to any person not
7 otherwise authorized by law to receive such information.

8 (4) Upon the order of any court of record after a determination has
9 been made by the court issuing the order that such records are necessary
10 for the conduct of proceedings before the court and are otherwise
11 admissible as evidence.

12 (5) In proceedings under this act, upon the oral or written request of
13 any attorney representing the patient, or former patient.

14 (6) To appropriate administrative or professional staff of the
15 department of corrections whenever patients have been administratively
16 transferred to the state security hospital or other state psychiatric hospitals
17 pursuant to the provisions of K.S.A. 75-5209 and amendments thereto. The
18 patient's or former patient's consent shall not be necessary to release
19 information to the department of corrections.

20 (7) To the state central repository at the Kansas bureau of
21 investigation for use only in determining eligibility to purchase and
22 possess firearms or qualifications for licensure pursuant to the personal
23 and family protection act.

24 ~~(8) To the commission on judicial performance in the discharge of the~~
25 ~~commission's duties pursuant to article 32 of chapter 20 of the Kansas~~
26 ~~Statutes Annotated, and amendments thereto.~~

27 ~~(9) As otherwise provided for in this act.~~

28 (b) To the extent the provisions of K.S.A. 65-5601 through 65-5605,
29 inclusive, and amendments thereto are applicable to treatment records or
30 medical records of any patient or former patient, the provisions of K.S.A.
31 65-5601 through 65-5605, inclusive, and amendments thereto shall control
32 the disposition of information contained in such records.

33 (c) Willful violation of this section is a class C misdemeanor.

34 Sec. 8. K.S.A. 2010 Supp. 60-3104 is hereby amended to read as
35 follows: 60-3104. (a) An intimate partner or household member may seek
36 relief under the protection from abuse act by filing a verified petition with
37 any district judge or with the clerk of the court alleging abuse by another
38 intimate partner or household member.

39 (b) A parent of or an adult residing with a minor child may seek relief
40 under the protection from abuse act on behalf of the minor child by filing a
41 verified petition with any district judge or with the clerk of the court
42 alleging abuse by another intimate partner or household member.

43 (c) The clerk of the court shall supply the forms for the petition and

1 orders, which shall be prescribed by the judicial council.

2 (d) Service of process served under this section shall be by personal
3 service and not by certified mail return receipt requested. No docket fee
4 shall be required for proceedings under the protection from abuse act.

5 (e) If the court finds that the plaintiff's address or telephone number,
6 or both, needs to remain confidential for the protection of the plaintiff,
7 plaintiff's minor children or minor children residing with the plaintiff, such
8 information shall not be disclosed to the public, but only to authorized
9 court or law enforcement personnel ~~and to the commission on judicial~~
10 ~~performance in the discharge of the commission's duties pursuant to article~~
11 ~~32 of chapter 20 of the Kansas Statutes Annotated, and amendments~~
12 ~~thereto.~~

13 Sec. 9. K.S.A. 2010 Supp. 60-31a04 is hereby amended to read as
14 follows: 60-31a04. (a) A person may seek relief under the protection from
15 stalking act by filing a verified petition with the district judge or clerk of
16 the court in the county where the stalking occurred. A verified petition
17 must allege facts sufficient to show the following:

- 18 (1) The name of the stalking victim;
- 19 (2) the name of the defendant;
- 20 (3) the dates on which the alleged stalking behavior occurred; and
- 21 (4) the acts committed by the defendant that are alleged to constitute
22 stalking.

23 (b) A parent or an adult residing with a minor child may seek relief
24 under the protection from stalking act on behalf of the minor child by
25 filing a verified petition with the district judge or with the clerk of the
26 court in the county where the stalking occurred.

27 (c) The clerk of the court shall supply the forms for the petition and
28 orders, which shall be prescribed by the judicial council.

29 (d) Service of process served under this section shall be by personal
30 service. No docket fee shall be required for proceedings under the
31 protection from stalking act.

32 (e) The victim's address and telephone number shall not be disclosed
33 to the defendant or to the public, but only to authorized court or law
34 enforcement personnel ~~and to the commission on judicial performance in~~
35 ~~the discharge of the commission's duties pursuant to article 32 of chapter~~
36 ~~20 of the Kansas Statutes Annotated, and amendments thereto.~~

37 Sec. 10. K.S.A. 20-3203 and 20-3208 and K.S.A. 2010 Supp. 20-367,
38 20-3201, 20-3202, 20-3204, 20-3205, 20-3206, 25-4169a, 38-2211, 38-
39 2309, 59-2122, 59-2979, 60-3104 and 60-31a04 are hereby repealed.

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