

## SENATE BILL No. 362

By Committee on Ways and Means

1-31

---

1 AN ACT concerning the revised Kansas code for care of children; relating  
2 to certain persons making reports of abuse or neglect of children;  
3 amending K.S.A. 2011 Supp. 38-2223 and repealing the existing  
4 section.

5  
6 *Be it enacted by the Legislature of the State of Kansas:*

7 Section 1. K.S.A. 2011 Supp. 38-2223 is hereby amended to read as  
8 follows: 38-2223. (a) *Persons making reports.* (1) When any of the  
9 following persons has reason to suspect that a child has been harmed as a  
10 result of physical, mental or emotional abuse or neglect or sexual abuse,  
11 the person shall report the matter promptly as provided in subsections (b)  
12 and (c);

13 (A) The following persons providing medical care or treatment:  
14 Persons licensed to practice the healing arts, dentistry and optometry;  
15 persons engaged in postgraduate training programs approved by the state  
16 board of healing arts; licensed professional or practical nurses; and chief  
17 administrative officers of medical care facilities;

18 (B) the following persons licensed by the state to provide mental  
19 health services: Licensed psychologists, licensed masters level  
20 psychologists, licensed clinical psychotherapists, licensed social workers,  
21 licensed marriage and family therapists, licensed clinical marriage and  
22 family therapists, licensed professional counselors, licensed clinical  
23 professional counselors ~~and registered alcohol and drug abuse counselors,~~  
24 *licensed addiction counselors and licensed clinical addiction counselors;*

25 (C) teachers, school administrators or other employees of an  
26 educational institution which the child is attending and persons licensed by  
27 the secretary of health and environment to provide child care services or  
28 the employees of persons so licensed at the place where the child care  
29 services are being provided to the child; and

30 (D) firefighters, emergency medical services personnel, law  
31 enforcement officers, juvenile intake and assessment workers, court  
32 services officers and community corrections officers, case managers  
33 appointed under ~~K.S.A. 23-1001 et seq.~~ *K.S.A. 2011 Supp. 23-3508*, and  
34 amendments thereto, and mediators appointed under ~~K.S.A. 23-602~~ *K.S.A.*  
35 *2011 Supp. 23-3502*, and amendments thereto; ~~and~~

36 (E) any person employed by or who works as a volunteer for any

1 organization, whether for profit or not-for-profit, that provides social  
2 services to pregnant teenagers, including, but not limited to, counseling,  
3 adoption services and pregnancy education and maintenance; and

4 *(F) any currently ordained member of the clergy or religious*  
5 *authority of any religious denomination or society.*

6 (2) In addition to the reports required under subsection (a)(1), any  
7 person who has reason to suspect that a child may be a child in need of  
8 care may report the matter as provided in subsection (b) and (c).

9 (b) *Form of report.* (1) The report may be made orally and shall be  
10 followed by a written report if requested. Every report shall contain, if  
11 known: The names and addresses of the child and the child's parents or  
12 other persons responsible for the child's care; the location of the child if  
13 not at the child's residence; the child's gender, race and age; the reasons  
14 why the reporter suspects the child may be a child in need of care; if abuse  
15 or neglect or sexual abuse is suspected, the nature and extent of the harm  
16 to the child, including any evidence of previous harm; and any other  
17 information that the reporter believes might be helpful in establishing the  
18 cause of the harm and the identity of the persons responsible for the harm.

19 (2) When reporting a suspicion that a child may be in need of care,  
20 the reporter shall disclose protected health information freely and  
21 cooperate fully with the secretary and law enforcement throughout the  
22 investigation and any subsequent legal process.

23 (c) *To whom made.* Reports made pursuant to this section shall be  
24 made to the secretary, except as follows:

25 (1) When the department of social and rehabilitation services is not  
26 open for business, reports shall be made to the appropriate law  
27 enforcement agency. On the next day that the department is open for  
28 business, the law enforcement agency shall report to the department any  
29 report received and any investigation initiated pursuant to K.S.A. 2011  
30 Supp. 38-2226, and amendments thereto. The reports may be made orally  
31 or, on request of the secretary, in writing.

32 (2) Reports of child abuse or neglect occurring in an institution  
33 operated by the secretary of social and rehabilitation services or the  
34 commissioner of juvenile justice shall be made to the attorney general. All  
35 other reports of child abuse or neglect by persons employed by or of  
36 children of persons employed by the department of social and  
37 rehabilitation services shall be made to the appropriate law enforcement  
38 agency.

39 (d) *Death of child.* Any person who is required by this section to  
40 report a suspicion that a child is in need of care and who knows of  
41 information relating to the death of a child shall immediately notify the  
42 coroner as provided by K.S.A. 22a-242, and amendments thereto.

43 (e) *Violations.* (1) Willful and knowing failure to make a report

1 required by this section is a class B misdemeanor. It is not a defense that  
2 another mandatory reporter made a report.

3 (2) Intentionally preventing or interfering with the making of a report  
4 required by this section is a class B misdemeanor.

5 (3) Any person who willfully and knowingly makes a false report  
6 pursuant to this section or makes a report that such person knows lacks  
7 factual foundation is guilty of a class B misdemeanor.

8 (f) *Immunity from liability.* Anyone who, without malice, participates  
9 in the making of a report to the secretary or a law enforcement agency  
10 relating to a suspicion a child may be a child in need of care or who  
11 participates in any activity or investigation relating to the report or who  
12 participates in any judicial proceeding resulting from the report shall have  
13 immunity from any civil liability that might otherwise be incurred or  
14 imposed.

15 Sec. 2. K.S.A. 2011 Supp. 38-2223 is hereby repealed.

16 Sec. 3. This act shall take effect and be in force from and after its  
17 publication in the statute book.