

## SENATE BILL No. 219

By Committee on Federal and State Affairs

2-25

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1 AN ACT concerning child abuse reporting; amending K.S.A. 2012 Supp.  
2 38-2226 and repealing the existing section.

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

5 Section 1. K.S.A. 2012 Supp. 38-2226 is hereby amended to read as  
6 follows: 38-2226. (a) *Investigation for child abuse or neglect.* The  
7 secretary and law enforcement officers shall have the duty to receive and  
8 investigate reports of child abuse or neglect for the purpose of determining  
9 whether the report is valid and whether action is required to protect a  
10 child. Any person or agency which maintains records relating to the  
11 involved child which are relevant to any investigation conducted by the  
12 secretary or law enforcement agency under this code shall provide the  
13 secretary or law enforcement agency with the necessary records to assist in  
14 investigations. In order to provide such records, the person or agency  
15 maintaining the records shall receive from the secretary or law  
16 enforcement: (1) A written request for information; and (2) a written notice  
17 that the investigation is being conducted by the secretary or law  
18 enforcement. If the secretary and such officers determine that no action is  
19 necessary to protect the child but that a criminal prosecution should be  
20 considered, such law enforcement officers shall make a report of the case  
21 to the appropriate law enforcement agency.

22 (b) *Joint investigations.* When a report of child abuse or neglect  
23 indicates: (1) That there is serious physical harm to, serious deterioration  
24 of or sexual abuse of the child; and (2) that action may be required to  
25 protect the child, the investigation shall be conducted as a joint effort  
26 between the secretary and the appropriate law enforcement agency or  
27 agencies, with a free exchange of information between them pursuant to  
28 K.S.A. 2012 Supp. 38-2210, and amendments thereto. If a statement of a  
29 suspect is obtained by either agency, a copy of the statement shall be  
30 provided to the other.

31 (c) *Investigation of certain cases.* Suspected child abuse or neglect  
32 which occurs in an institution operated by the secretary shall be  
33 investigated by the attorney general. Any other suspected child abuse or  
34 neglect by persons employed by the department of social and rehabilitation  
35 services for children and families shall be investigated by the appropriate  
36 law enforcement agency.

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

5 (e) *Investigations concerning certain facilities.* Any investigation  
6 involving a facility subject to licensing or regulation by the secretary of  
7 health and environment shall be promptly reported to the state secretary of  
8 health and environment.

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

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

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

28 (h) *All representatives of the secretary shall, at the initial time of*  
29 *contact with the individual subject to a child abuse or neglect*  
30 *investigation, advise the individual of the specific actions or inactions of*  
31 *the individual that have been reported as suspected abuse or neglect,*  
32 *without disclosing the identity of the reporter and advise the individual of*  
33 *their right to seek legal counsel.*

34 (i) *All workers in the department for children and families must be*  
35 *trained in their legal duties to protect the constitutional and statutory*  
36 *rights of children and families, from the initial time of contact, during*  
37 *investigation, and through treatment. The training curriculum must*  
38 *include instruction in the fourth amendment to the United States*  
39 *constitution and parents' rights.*

40 (j) *If no evidence exists for the initial complaint, the investigation*  
41 *shall cease unless the department has probable cause to suspect other*  
42 *forms of abuse or neglect. The fact that a child is home-schooled is not a*  
43 *valid reason for instituting an investigation of abuse or neglect. If an*

1 *investigation reveals no evidence of abuse or neglect, the secretary shall*  
2 *issue a formal letter stating that the investigation has ceased and that no*  
3 *evidence of abuse or neglect has been found. If the investigation shows the*  
4 *complaint was not made in good faith, the department shall charge the*  
5 *cost of the investigation to the complainant.*

6       Sec. 2. K.S.A. 2012 Supp. 38-2226 is hereby repealed.

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