

**SENATE BILL No. 301**

By Committee on Federal and State Affairs

3-18

1 AN ACT concerning children and minors; establishing the office of the  
2 child advocate within the office of the attorney general and prescribing  
3 certain powers, duties and functions therefor; the joint committee on  
4 child welfare system oversight; authorizing access to certain records;  
5 amending K.S.A. 2020 Supp. 38-2211, 38-2212, 38-2213, 38-2309 and  
6 38-2310 and repealing the existing sections.

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

9 New Section 1. (a) Sections 1 through 5, and amendments thereto,  
10 shall be known and may be cited as the child advocate act.

11 (b) As used in the child advocate act:

12 (1) "Office" means the office of the child advocate within the office  
13 of the attorney general and includes the child advocate and staff; and

14 (2) "child" means an individual less than 18 years of age at the time  
15 such individual was receiving:

16 (A) Services from the Kansas department for children and families or  
17 any contracting agency, for whom the Kansas department of children and  
18 families has an open case file, or who has been, or whose siblings, parents  
19 or other caretakers have been the subject of a report of abuse or neglect to  
20 the Kansas department for children and families within the previous five  
21 years; or

22 (B) services, treatment or other programs from the department of  
23 corrections.

24 New Sec. 2. (a) There is hereby established within and under the  
25 jurisdiction of the attorney general a division known as the office of the  
26 child advocate.

27 (b) (1) The office shall be administered by the child advocate, who  
28 shall be appointed by the attorney general with the advice and consent and  
29 subject to confirmation by the senate as provided by K.S.A. 75-4315b, and  
30 amendments thereto. Except as provided by K.S.A. 46-2601, and  
31 amendments thereto, no person appointed to the position of the child  
32 advocate shall exercise any power, duty or function of the child advocate  
33 until confirmed by the senate. The child advocate shall be selected without  
34 regard to political affiliation and on the basis of integrity and capacity for  
35 effectively carrying out the duties of the office.

36 (2) No former or current executive or manager of any program or

1 agency or contracting agency subject to oversight by the office may be  
2 appointed to the position of the child advocate within six months of that  
3 individual's period of service with such program or agency.

4 (3) A person appointed to the position of the child advocate shall  
5 serve for a term that shall expire on January 15 of each year in which the  
6 whole senate is sworn in for a new term.

7 (4) The child advocate shall be in the unclassified service and shall  
8 receive an annual salary in an amount equal to the annual salary paid by  
9 the state to a district court judge.

10 (5) The child advocate shall exercise independent judgment in  
11 carrying out the duties of the office. The child advocate shall report to the  
12 attorney general and may be removed from office prior to the expiration of  
13 the child advocate's term of office by the attorney general for cause.

14 (c) (1) Subject to this subsection, the child advocate shall have  
15 general managerial control over the office of the child advocate and shall  
16 establish the organizational structure of the office as the child advocate  
17 deems appropriate to carry out the responsibilities and functions of the  
18 office.

19 (2) All budgeting, purchasing, personnel and related administrative  
20 functions of the office shall be administered under the direction and  
21 supervision of the attorney general.

22 (3) Appropriations for the office shall be made to the attorney general  
23 by separate line item appropriations for the office.

24 (4) Within the limits of appropriations therefor, the attorney general  
25 may hire such employees in the unclassified service as are necessary to  
26 administer the office. Such employees shall serve at the pleasure of the  
27 attorney general. Subject to appropriations and this subsection, the child  
28 advocate may obtain the services of other professionals necessary to  
29 independently perform the functions of the office, including obtaining  
30 legal services as provided by K.S.A. 75-769, and amendments thereto.

31 New Sec. 3. (a) The purpose of the office of the child advocate is to  
32 receive and resolve complaints from legislators and from persons involved  
33 with the child welfare system alleging that the Kansas department for  
34 children and families, the department's contracting agencies or the  
35 department of corrections has provided inadequate protection or care of  
36 children and assist the legislature in conducting oversight of the child  
37 welfare system to improve the safety and welfare of children.

38 (b) The office shall receive complaints that allege the Kansas  
39 department for children and families, the department's contracting agencies  
40 or the department of corrections by act or omission, failed to protect the  
41 physical or mental health, safety or welfare of any child or failed to follow  
42 established laws, rules and regulations or written policies. The child  
43 advocate shall:

- 1 (1) Establish and implement procedures for receiving complaints;
- 2 (2) provide the Kansas department for children and families with a  
3 notice of availability that describes the office and procedures for  
4 contacting the office. The department shall ensure such notice is  
5 prominently posted in department offices and facilities receiving public  
6 moneys for the care and placement of children;
- 7 (3) maintain a publicly available website; and
- 8 (4) publicize and notify individuals of the office's services, purpose  
9 and contact information.
- 10 (c) After consultation with the joint committee on child welfare  
11 system oversight, the child advocate may establish limits for the type or  
12 number of complaints the office receives to maintain the office's ability to  
13 properly investigate and resolve such complaints considering the office's  
14 personnel, resources, authority and expertise.
- 15 (d) The office shall independently investigate complaints received  
16 pursuant to subsection (b) if the office reasonably believes the complaint's  
17 allegations may be independently verified through an investigation. To  
18 investigate, the office shall:
  - 19 (1) Establish and implement procedures for investigating complaints;
  - 20 (2) have access to the following information:
    - 21 (A) The names and physical location of all children in protective  
22 services, treatment or other programs under the jurisdiction of the Kansas  
23 department for children and families or the department of corrections;
    - 24 (B) all written reports of child abuse and neglect;
    - 25 (C) all records of any public or private agency or institution having  
26 custody of the child under court order, providing education, medical or  
27 mental health services to the child or any placement or potential placement  
28 provider determined by the secretary for children and families; and
    - 29 (D) all current records required to be maintained pursuant to articles  
30 22 and 23 of chapter 38 of the Kansas Statutes Annotated, and  
31 amendments thereto;
  - 32 (3) communicate privately with:
    - 33 (A) Any child or child's siblings, after consultation with treatment  
34 professionals and service providers; and
    - 35 (B) anyone working with the child, including the family, relatives,  
36 employees of the Kansas department for children and families or the  
37 department of corrections and other persons or entities providing treatment  
38 and services;
  - 39 (4) have access to, including the right to inspect and copy, relevant  
40 child records held by law enforcement agencies, the clerk of any Kansas  
41 court, juvenile officers, public or private institutions and other agencies or  
42 persons with whom a particular child has been either voluntarily or  
43 otherwise placed for care or from whom the child has received treatment

- 1 within this state or in another state;
- 2 (5) work in conjunction with juvenile intake and assessment workers,  
3 juvenile community corrections officers, guardians ad litem and court  
4 appointed special advocates; and
- 5 (6) subpoena materials or witnesses, take statements under oath, serve  
6 interrogatories and obtain judicial enforcement of compulsory processes.
- 7 (e) To resolve complaints received pursuant to subsection (b), the  
8 office shall:
- 9 (1) Establish and implement procedures to resolve the complaints;
- 10 (2) independently review the subject of the complaint and after the  
11 initial review of the complaint and any accompanying material, the child  
12 advocate may recommend that a department or contracting agency:
- 13 (A) Consider the matter further;
- 14 (B) modify or cancel the department or contracting agencies' actions;
- 15 (C) alter a rule, order or internal policy;
- 16 (D) explain the action further; or
- 17 (E) within a reasonable time after receiving a recommendation,  
18 provide the office information concerning the department or contracting  
19 agency action to implement or not implement recommendations made by  
20 the office pursuant to this paragraph;
- 21 (3) submit any findings or recommendations pursuant to paragraph  
22 (2) to the secretary for children and families or the secretary of corrections  
23 as appropriate;
- 24 (4) upon reason to believe a criminal investigation is warranted, make  
25 a referral of child abuse or neglect to an appropriate law enforcement  
26 agency with jurisdiction over the matter and notify the abuse, neglect and  
27 exploitation unit of the office of the attorney general; and
- 28 (5) produce reports of findings of fact or conclusions of law regarding  
29 any complaint, and, if appropriate, the attorney general may file such  
30 reports in any pending child in need of care case on behalf of the office.
- 31 (f) To assist the legislature in oversight of the child welfare system,  
32 the office may:
- 33 (1) Meet and discuss any matter in the scope of the child advocate act  
34 with the joint committee on child welfare system oversight in regular or  
35 executive session under the same duties of confidentiality provided for the  
36 child advocate;
- 37 (2) review relevant statutes, rules and regulations, policies and  
38 procedures for the health, safety and welfare of children;
- 39 (3) evaluate the effectiveness of and recommend changes to  
40 procedures for reports of child abuse and neglect for child protective  
41 services, including, but not limited to, the involvement of the Kansas  
42 department for children and families, service providers, guardians ad  
43 litem, court appointed special advocates and law enforcement agencies;

1 and

2 (4) review and recommend changes to law enforcement investigative  
3 procedures for and emergency responses to reports of abuse and neglect.

4 (g) On or before the beginning of each regular session of the  
5 legislature, the office shall prepare and submit a report to the legislature  
6 that includes recommendations for changes in statute, proposed annual  
7 budget, personnel and any other topics the office deems appropriate to  
8 properly perform the powers, duties and functions provided by the child  
9 advocate act.

10 (h) The annual budget request of the office shall be prepared by the  
11 child advocate and presented to the joint committee on child welfare  
12 system oversight. Upon the approval of the joint committee on child  
13 welfare system oversight, the child advocate shall submit the budget  
14 request to the office of the attorney general to include with the office of the  
15 attorney general's annual budget request to the director of the budget as  
16 budget requests are submitted as provided by K.S.A. 75-3717, and  
17 amendments thereto.

18 (i) To assist the office in the office's duties under the child advocate  
19 act, employees of the Kansas department for children and families, the  
20 department's contracting agencies, the department of corrections, juvenile  
21 intake and assessment workers, juvenile community corrections officers,  
22 guardians ad litem and court appointed special advocates shall:

23 (1) Work diligently, promptly and in good faith to assist the office in  
24 performing the office's powers, duties and functions provided by the child  
25 advocate act;

26 (2) provide full access to and production of records and information  
27 requested by the office in the office's duties provided by the act. Such  
28 access shall not be a violation of confidentiality of such records if  
29 provided and produced in good faith for the purposes of the act;

30 (3) require employees and contractors of such department or agency  
31 to comply with requests from the office in such office's duties provided by  
32 the act;

33 (4) allow employees of such department or agency to file a complaint  
34 with or provide records or information to the office without supervisory  
35 approval;

36 (5) not willfully interfere with or obstruct any of the office's duties  
37 provided by the act; and

38 (6) promptly meet and consult with the office upon request of the  
39 office.

40 New Sec. 4. (a) For any information obtained from a state agency or  
41 other entity under the child advocate act, the office shall be subject to the  
42 same state and federal statutory disclosure restrictions and confidentiality  
43 requirements that are applicable to the state agency or other entity

1 providing such information to the office.

2 (b) Any files maintained by the office shall be confidential and  
3 disclosed only at the discretion of the child advocate, except that the  
4 identity of any complainant or child shall not be disclosed by the office  
5 unless:

6 (1) The complainant or child, respectively, or the complainant's or  
7 child's legal representative, consents in writing to such disclosure; or

8 (2) such disclosure is required by court order.

9 (c) Any statement or communication made by the office relevant to a  
10 complaint being investigated by the office and any complaint or  
11 information made or provided in good faith by any person shall be  
12 absolutely privileged, and such person shall be immune from suit.

13 (d) A representative of the office conducting or participating in any  
14 investigation of a complaint shall not knowingly disclose to any person  
15 other than the office, or a person authorized by the office, the name of any  
16 witness examined or any information obtained or given during such  
17 investigation. Violation of this subsection is a class A nonperson  
18 misdemeanor.

19 (e) The office conducting or participating in any investigation of a  
20 complaint shall disclose the final result of the investigation with the  
21 consent of the child or child's legal representative.

22 (f) The office shall not be required to testify in any court with respect  
23 to matters held to be confidential in this section, except as the court may  
24 deem necessary to enforce the provisions of the child advocate act or when  
25 otherwise required by court order.

26 (g) The provisions of this section providing for confidentiality of  
27 records shall expire on July 1, 2026, unless the legislature reenacts such  
28 provisions. The legislature shall review this section pursuant to K.S.A. 45-  
29 229, and amendments thereto, prior to July 1, 2026.

30 New Sec. 5. (a) (1) Except as provided by paragraph (2), no  
31 retaliatory action shall knowingly be taken against any child or employee  
32 of the Kansas department for children and families or the department of  
33 corrections for any communication made or information given to the  
34 office. Violation of this paragraph is a class A nonperson misdemeanor.

35 (2) Paragraph (1) shall not apply to an employee who discloses:

36 (A) Information that such employee knows to be false or information  
37 without regard for the truth or falsity of the information; or

38 (B) without lawful authority, information that is confidential as  
39 provided by any other provision of law.

40 (c) As used in this section, "retaliatory action" includes, but is not  
41 limited to:

42 (1) Letters of reprimand or unsatisfactory performance evaluations;

43 (2) transfer;

- 1 (3) demotion;
- 2 (4) reduction in pay;
- 3 (5) denial of promotion;
- 4 (6) suspension;
- 5 (7) dismissal; and
- 6 (8) denial of employment.

7 New Sec. 6. (a) There is hereby established the joint committee on  
8 child welfare system oversight. The joint committee shall review:

9 (1) The office of the child advocate's report submitted pursuant to  
10 section 3(g), and amendments thereto, concerning changes in statute,  
11 personnel and any other topics the office deems appropriate to properly  
12 perform the powers, duties and functions provided by the child advocate  
13 act;

14 (2) the office's proposed annual budget;

15 (3) data on child maltreatment and demographic trends impacting the  
16 child welfare system;

17 (4) the duties, responsibilities and contributions of the Kansas  
18 department for children and families, the Kansas department for aging and  
19 disability services, the department of health and environment, the  
20 department of corrections, law enforcement and the judicial branch that  
21 comprise and impact the child welfare system;

22 (5) the programs, services and benefits offered directly or through  
23 grants or contracts by the Kansas department for children and families, the  
24 Kansas department for aging and disability services, the department of  
25 health and environment, the department of corrections and the judicial  
26 branch that impact children and families at risk of becoming involved or  
27 who are involved in the child welfare system, including, but not limited to:

28 (A) Child maltreatment prevention;

29 (B) investigations of child maltreatment;

30 (C) in-home family services, including, but not limited to, services  
31 offered through federal prevention and family preservation funding; and

32 (D) foster care, reintegration and adoption services;

33 (6) trends, performance outcomes, activities and improvement plans  
34 related to federal child and family services reviews;

35 (7) reports from child welfare-related groups, including, but not  
36 limited to, citizen review panels, the Kansas supreme court permanency  
37 planning task force, the Kansas children's cabinet and any interim study  
38 committees or work groups authorized by the Kansas legislature;

39 (8) implementation of the 2019 child welfare system task force report  
40 recommendations, including, but not limited to, top-tier recommendations  
41 related to the child welfare workforce, data technology, access to  
42 behavioral healthcare for high-risk youth and implementation of the  
43 federal family first prevention services act;

1 (9) reports on concerns received from the Kansas department for  
2 children and families child welfare ombudsman, customer service  
3 department or similar office;

4 (10) opportunities for Kansas to strengthen the child welfare system  
5 through evidence-based interventions and services for children and  
6 families; and

7 (11) any other topic the joint committee deems appropriate.

8 (b) The joint committee shall consist of 13 members of the legislature  
9 appointed as follows:

10 (1) Two members of the house of representatives standing committee  
11 on children and seniors appointed by the speaker of the house of  
12 representatives;

13 (2) one member of the house of representatives standing committee  
14 on children and seniors appointed by the minority leader of the house of  
15 representatives;

16 (3) two members of the senate standing committee on public health  
17 and welfare appointed by the president of the senate;

18 (4) one member of the senate standing committee on public health  
19 and welfare appointed by the minority leader of the senate;

20 (5) two members of the house of representatives appointed by the  
21 speaker of the house of representatives;

22 (6) one member of the house of representatives appointed by the  
23 minority leader of the house of representatives;

24 (7) two members of the senate appointed by the president of the  
25 senate;

26 (8) one member of the senate appointed by the minority leader of the  
27 senate; and

28 (9) one member of the house of representatives appointed by the  
29 majority leader of the house of representatives.

30 (c) Members shall be appointed for terms coinciding with the  
31 legislative terms for which such members are elected or appointed. All  
32 members appointed to fill vacancies in the membership of the joint  
33 committee and all members appointed to succeed members appointed to  
34 the membership on the joint committee shall be appointed in the manner  
35 provided for the original appointment of the member succeeded.

36 (d) (1) The first chairperson of the joint committee shall be appointed  
37 by the speaker of the house of representatives from among the members of  
38 the joint committee appointed by the speaker of the house of  
39 representatives, within 30 days of the effective date of this section. The  
40 chairperson and vice chairperson of the joint committee shall alternate  
41 annually between the members appointed by the speaker of the house or  
42 representatives and the president of the senate.

43 (2) The representative chairperson or vice chairperson shall be



1 designated by the speaker of the house of representatives. The senator  
2 chairperson or vice chairperson shall be designated by the president of the  
3 senate. The ranking minority member shall be from the same chamber as  
4 the chairperson and shall be designated by the minority leader of such  
5 chamber.

6 (e) The members originally appointed as members of the joint  
7 committee shall meet upon the call of the chairperson on or after July 1,  
8 2021. Thereafter, the joint committee shall meet at least once during each  
9 of the first and second calendar quarters when the legislature is in regular  
10 session and at least once during each of the third and fourth calendar  
11 quarters, on the call of the chairperson, but not to exceed six meetings in a  
12 calendar year.

13 (f) Seven members of the joint committee shall constitute a quorum.

14 (g) At the beginning of each regular session of the legislature, the  
15 joint committee shall submit to the president of the senate, the speaker of  
16 the house of representatives, the house of representatives standing  
17 committee on children and seniors and the senate standing committee on  
18 public health and welfare a written report that shall include recommended  
19 changes to statutes, rules and regulations and policies regarding the safety  
20 and well-being of children in the child welfare system in the state of  
21 Kansas.

22 (h) Members of the joint committee shall be paid compensation,  
23 amounts for travel expenses and subsistence expenses or allowances as  
24 provided in K.S.A. 75-3212, and amendments thereto, for attendance at  
25 any meeting of the joint committee or any subcommittee meeting  
26 authorized by the committee.

27 (i) In accordance with K.S.A. 46-1204, and amendments thereto, the  
28 legislative coordinating council may provide for such professional services  
29 as may be requested by the joint committee.

30 (j) The joint committee may introduce legislation and make  
31 recommendations as necessary in performing the joint committee's  
32 functions.

33 Sec. 7. K.S.A. 2020 Supp. 38-2211 is hereby amended to read as  
34 follows: 38-2211. (a) *Access to the official file*. The following persons or  
35 entities shall have access to the official file of a child in need of care  
36 proceeding pursuant to this code:

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

39 (2) The parties to the proceedings and their attorneys.

40 (3) The guardian ad litem for a child who is the subject of the  
41 proceeding.

42 (4) A court appointed special advocate for a child who is the subject  
43 of the proceeding or a paid staff member of a court appointed special

1 advocate program.

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

7 (6) A citizen review board.

8 (7) The secretary of corrections or any agents designated by the  
9 secretary of corrections.

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

12 (9) *The office of the child advocate pursuant to the child advocate*  
13 *act.*

14 (10) Any other person when authorized by a court order, subject to  
15 any conditions imposed by the order.

16 ~~(10)~~(11) The commission on judicial performance in the discharge of  
17 the commission's duties pursuant to article 32 of chapter 20 of the Kansas  
18 Statutes Annotated, and amendments thereto.

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

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

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

26 (3) The guardian ad litem for a child who is the subject of the  
27 proceeding.

28 (4) A court appointed special advocate for a child who is the subject  
29 of the proceeding or a paid staff member of a court appointed special  
30 advocate program.

31 (5) A citizen review board.

32 (6) The secretary.

33 (7) The secretary of corrections or any agents designated by the  
34 secretary of corrections.

35 (8) Any county or district attorney from another jurisdiction with a  
36 pending child in need of care matter regarding any of the same parties or  
37 interested parties.

38 (9) *The office of the child advocate pursuant to the child advocate*  
39 *act.*

40 (10) Any other person when authorized by a court order, subject to  
41 any conditions imposed by the order.

42 (c) *Preservation of records.* The Kansas state historical society shall  
43 be allowed to take possession for preservation in the state archives of any

1 court records related to proceedings under the Kansas code for care of  
2 children whenever such records otherwise would be destroyed. No such  
3 records in the custody of the Kansas state historical society shall be  
4 disclosed directly or indirectly to anyone for 70 years after creation of the  
5 records, except as provided in subsections (a) and (b). Pursuant to  
6 subsections (a)(9) and (b)(9), a judge of the district court may allow  
7 inspection for research purposes of any court records in the custody of the  
8 Kansas state historical society related to proceedings under the Kansas  
9 code for care of children.

10 Sec. 8. K.S.A. 2020 Supp. 38-2212 is hereby amended to read as  
11 follows: 38-2212. (a) *Principle of appropriate access.* Information  
12 contained in confidential agency records concerning a child alleged or  
13 adjudicated to be in need of care may be disclosed as provided in this  
14 section. 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. 2020 Supp. 38-  
18 2210, and amendments thereto, the secretary and juvenile intake and  
19 assessment agencies shall participate in the free exchange of information  
20 concerning a 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.

35 (4) A person licensed to practice the healing arts or mental health  
36 profession in order to diagnose, care for, treat or supervise a:

37 (A) ~~A~~ Child whom such service provider reasonably suspects may be  
38 in need of care;

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

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

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

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

3 (7) The state child death review board established under K.S.A. 22a-  
4 243, and amendments thereto.

5 (8) An attorney for a private party who files a petition pursuant to  
6 K.S.A. 2020 Supp. 38-2233(b), and amendments thereto.

7 (9) A foster parent, prospective foster parent, permanent custodian,  
8 prospective permanent custodian, adoptive parent or prospective adoptive  
9 parent. In order to assist such persons in making an informed decision  
10 regarding acceptance of a particular child, to help the family anticipate  
11 problems that may occur during the child's placement, and to help the  
12 family meet the needs of the child in a constructive manner, the secretary  
13 shall seek and shall provide the following information to such persons as  
14 the information becomes available to the secretary:

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

16 (B) circumstances that necessitated placement;

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

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

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

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

25 (10) The state protection and advocacy agency as provided by K.S.A.  
26 65-5603(a)(10) or ~~K.S.A.~~ 74-5515(a)(2)(A) and (B), and amendments  
27 thereto.

28 (11) Any educational institution to the extent necessary to enable the  
29 educational institution to provide the safest possible environment for its  
30 pupils and employees.

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

33 (13) *The office of the child advocate pursuant to the child advocate*  
34 *act.*

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

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

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

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

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

24 (A) The individuals involved or their representatives have given  
25 express written consent; or

26 (B) the investigation of the abuse or neglect of the child or the filing  
27 of a petition alleging a child to be in need of care has become public  
28 knowledge, provided, however, that the agency shall limit disclosure to  
29 confirmation of procedural details relating to the handling of the case by  
30 professionals.

31 (e) *Court order.* Notwithstanding the provisions of this section, a  
32 court of competent jurisdiction, after in camera inspection, may order  
33 disclosure of confidential agency records pursuant to a determination that  
34 the disclosure is in the best interests of the child who is the subject of the  
35 reports or that the records are necessary for the proceedings of the court.  
36 The court shall specify the terms of disclosure and impose appropriate  
37 limitations.

38 (f) (1) Notwithstanding any other provision of law to the contrary,  
39 except as provided in paragraph (6), in the event that child abuse or  
40 neglect results in a child fatality or near fatality, reports or records of a  
41 child alleged or adjudicated to be in need of care received by the secretary,  
42 a law enforcement agency or any juvenile intake and assessment worker  
43 shall become a public record and subject to disclosure pursuant to K.S.A.

1 45-215, and amendments thereto.

2 (2) Within seven days of receipt of a request in accordance with the  
3 procedures adopted under K.S.A. 45-220, and amendments thereto, the  
4 secretary shall notify any affected individual that an open records request  
5 has been made concerning such records. The secretary or any affected  
6 individual may file a motion requesting the court to prevent disclosure of  
7 such record or report, or any select portion thereof. Notice of the filing of  
8 such motion shall be provided to all parties requesting the records or  
9 reports, and such party or parties shall have a right to hearing, upon  
10 request, prior to the entry of any order on such motion. If the affected  
11 individual does not file such motion within seven days of notification, and  
12 the secretary has not filed a motion, the secretary shall release the reports  
13 or records. If such motion is filed, the court shall consider the effect such  
14 disclosure may have upon an ongoing criminal investigation, a pending  
15 prosecution, or the privacy of the child, if living, or the child's siblings,  
16 parents or guardians, and the public's interest in the disclosure of such  
17 records or reports. The court shall make written findings on the record  
18 justifying the closing of the records and shall provide a copy of the journal  
19 entry to the affected parties and the individual requesting disclosure  
20 pursuant to the Kansas open records act, K.S.A. 45-215 et seq., and  
21 amendments thereto.

22 (3) Notwithstanding the provisions of paragraph (2), in the event that  
23 child abuse or neglect results in a child fatality, the secretary shall release  
24 the following information in response to an open records request made  
25 pursuant to the Kansas open records act, within seven business days of  
26 receipt of such request, as allowed by applicable law:

27 (A) Age and sex of the child;

28 (B) date of the fatality;

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

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

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

39 (A) Age and sex of the child;

40 (B) date of the fatality; and

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

42 (5) For reports or records requested pursuant to this subsection, the  
43 time limitations specified in this subsection shall control to the extent of

1 any inconsistency between this subsection and K.S.A. 45-218, and  
2 amendments thereto. As used in this section, "near fatality" means an act  
3 that, as certified by a person licensed to practice medicine and surgery,  
4 places the child in serious or critical condition.

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

10 Sec. 9. K.S.A. 2020 Supp. 38-2213 is hereby amended to read as  
11 follows: 38-2213. (a) *Principle of limited disclosure.* Information  
12 contained in confidential law enforcement records concerning a child  
13 alleged or adjudicated to be in need of care may be disclosed as provided  
14 in this section. 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. 2020 Supp. 38-  
18 2210, and amendments thereto, a law enforcement agency shall participate  
19 in the free exchange of information concerning a child who is alleged or  
20 adjudicated to be in need of care.

21 (c) *Access to information in law enforcement records.* In order to  
22 discharge their official duties, the following persons or entities shall have  
23 access to confidential law enforcement records concerning a child alleged  
24 or adjudicated to be in need of care.

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

27 (2) The secretary.

28 (3) The ~~commissioner of juvenile justice~~ *secretary of corrections.*

29 (4) Law enforcement officers or county or district attorneys or their  
30 staff.

31 (5) Any juvenile intake and assessment worker.

32 (6) Members of a court-appointed multidisciplinary team.

33 (7) *The office of the child advocate pursuant to the child advocate*  
34 *act.*

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

39 ~~(8)(9)~~ Persons or entities allowed access pursuant to ~~subsection (f)~~ of  
40 K.S.A. 2020 Supp. 38-2212(f), and amendments thereto.

41 (d) *Necessary access.* The following persons or entities shall have  
42 access to information from law enforcement records when reasonably  
43 necessary to carry out their lawful responsibilities, to maintain their

1 personal safety and the personal safety of individuals in their care, or to  
2 educate, diagnose, treat, care for or protect a child alleged or adjudicated  
3 to be in need of care. Information authorized to be disclosed in this  
4 subsection shall not contain information ~~which~~ *that* identifies a reporter of  
5 a child alleged or adjudicated to be a child in need of care.

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

13 (2) School administrators shall have access to but shall not copy law  
14 enforcement records and may disclose information to teachers,  
15 paraprofessionals and other school personnel as necessary to meet the  
16 educational needs of the child or to protect the safety of students and  
17 school employees.

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

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

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



1 Sec. 10. K.S.A. 2020 Supp. 38-2309 is hereby amended to read as  
2 follows: 38-2309. (a) *Official file*. The official file of proceedings pursuant  
3 to this code shall consist of the complaint, process, service of process,  
4 orders, writs and journal entries reflecting hearings held, judgments and  
5 decrees entered by the court. The official file shall be kept separate from  
6 other records of the court.

7 (b) The official file shall be open for public inspection, unless the  
8 judge determines that opening the official file for public inspection is not  
9 in the best interests of a juvenile who is less than 14 years of age.  
10 Information identifying victims and alleged victims of sex offenses, as  
11 defined in article 35 of chapter 21 of the Kansas Statutes Annotated, prior  
12 to their repeal, or article 55 of chapter 21 of the Kansas Statutes  
13 Annotated, or K.S.A. 2020 Supp. 21-6419 through 21-6422, and  
14 amendments thereto, or human trafficking or aggravated human  
15 trafficking, as defined in K.S.A. 21-3446 or 21-3447, prior to their repeal,  
16 or K.S.A. 2020 Supp. 21-5426, and amendments thereto, shall not be  
17 disclosed or open to public inspection under any circumstances. Nothing in  
18 this section shall prohibit the victim or alleged victim of any sex offense  
19 from voluntarily disclosing such victim's identity. An official file closed  
20 pursuant to this section and information identifying the victim or alleged  
21 victim of any sex offense shall be disclosed only to the following:

22 (1) A judge of the district court and members of the staff of the court  
23 designated by the judge;

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

25 (3) any individual or any public or private agency or institution: (A)  
26 Having custody of the juvenile under court order; or (B) providing  
27 educational, medical or mental health services to the juvenile;

28 (4) the juvenile's court appointed special advocate;

29 (5) any placement provider or potential placement provider as  
30 determined by the commissioner or court services officer;

31 (6) law enforcement officers or county or district attorneys, or their  
32 staff, when necessary for the discharge of their official duties;

33 (7) the Kansas racing commission, upon written request of the  
34 commission chairperson, for the purpose provided by K.S.A. 74-8804, and  
35 amendments thereto, except that information identifying the victim or  
36 alleged victim of any sex offense shall not be disclosed pursuant to this  
37 subsection;

38 (8) juvenile intake and assessment workers;

39 (9) ~~the commissioner~~ *secretary of corrections*;

40 (10) *the office of the child advocate pursuant to the child advocate*  
41 *act*;

42 (11) any other person when authorized by a court order, subject to any  
43 conditions imposed by the order; and

1        ~~(H)~~(12) the commission on judicial performance in the discharge of  
2 the commission's duties pursuant to article 32 of chapter 20 of the Kansas  
3 Statutes Annotated, and amendments thereto.

4        (c) *Social file.* (1) Reports and information received by the court,  
5 other than the official file, shall be privileged and open to inspection only  
6 by *the following*:

7        (A) Attorneys for the parties;;

8        (B) juvenile intake and assessment workers;;

9        (C) court appointed special advocates;;

10        (D) juvenile community corrections officers;;

11        (E) the juvenile's guardian ad litem, if any;;

12        (F) *the office of the child advocate pursuant to the child advocate*  
13 *act; or upon*

14        (G) *any other person when authorized by the order of a judge of the*  
15 *district court or appellate court.*

16        (2) The reports shall not be further disclosed without approval of the  
17 court or by being presented as admissible evidence.

18        (d) *Preservation of records.* The Kansas state historical society shall  
19 be allowed to take possession for preservation in the state archives of any  
20 court records related to proceedings under the Kansas juvenile justice code  
21 or the revised Kansas juvenile justice code whenever such records  
22 otherwise would be destroyed. The Kansas state historical society shall  
23 make available for public inspection any unexpunged docket entry or  
24 official file in its custody concerning any juvenile 14 or more years of age  
25 at the time an offense is alleged to have been committed by the juvenile.  
26 No other such records in the custody of the Kansas state historical society  
27 shall be disclosed directly or indirectly to anyone for 70 years after  
28 creation of the records, except as provided in subsections (b) and (c). A  
29 judge of the district court may allow inspection for research purposes of  
30 any court records in the custody of the Kansas state historical society  
31 related to proceedings under the Kansas juvenile justice code or the  
32 revised Kansas juvenile justice code.

33        (e) Relevant information, reports and records, shall be made available  
34 to the department of corrections upon request, and a showing that the  
35 former juvenile has been convicted of a crime and placed in the custody of  
36 the secretary of corrections.

37        Sec. 11. K.S.A. 2020 Supp. 38-2310 is hereby amended to read as  
38 follows: 38-2310. (a) All records of law enforcement officers and agencies  
39 and municipal courts concerning an offense committed or alleged to have  
40 been committed by a juvenile under 14 years of age shall be kept readily  
41 distinguishable from criminal and other records and shall not be disclosed  
42 to anyone except:

43        (1) The judge of the district court and members of the staff of the

- 1 court designated by the judge;
- 2 (2) parties to the proceedings and their attorneys;
- 3 (3) the Kansas department for children and families;
- 4 (4) the juvenile's court appointed special advocate, any officer of a  
5 public or private agency or institution or any individual having custody of  
6 a juvenile under court order or providing educational, medical or mental  
7 health services to a juvenile;
- 8 (5) any educational institution, to the extent necessary to enable the  
9 educational institution to provide the safest possible environment for its  
10 pupils and employees;
- 11 (6) any educator, to the extent necessary to enable the educator to  
12 protect the personal safety of the educator and the educator's pupils;
- 13 (7) law enforcement officers or county or district attorneys, or their  
14 staff, when necessary for the discharge of their official duties;
- 15 (8) the central repository, as defined by K.S.A. 22-4701, and  
16 amendments thereto, for use only as a part of the juvenile offender  
17 information system established under K.S.A. 2020 Supp. 38-2326, and  
18 amendments thereto;
- 19 (9) juvenile intake and assessment workers;
- 20 (10) the department of corrections;
- 21 (11) juvenile community corrections officers;
- 22 (12) the interstate compact for juveniles compact administrator for  
23 the purpose of carrying out the responsibilities related to the interstate  
24 compact for juveniles;
- 25 (13) *the office of the child advocate pursuant to the child advocate*  
26 *act*;
- 27 (14) any other person when authorized by a court order, subject to  
28 any conditions imposed by the order; and
- 29 ~~(14)~~(15) as provided in subsection (c).
- 30 (b) The provisions of this section shall not apply to records  
31 concerning:
- 32 (1) A violation, by a person 14 or more years of age, of any provision  
33 of chapter 8 of the Kansas Statutes Annotated, and amendments thereto, or  
34 of any city ordinance or county resolution—~~which~~ *that* relates to the  
35 regulation of traffic on the roads, highways or streets or the operation of  
36 self-propelled or nonself-propelled vehicles of any kind;
- 37 (2) a violation, by a person 16 or more years of age, of any provision  
38 of chapter 32 of the Kansas Statutes Annotated, and amendments thereto;  
39 or
- 40 (3) an offense for which the juvenile is prosecuted as an adult.
- 41 (c) All records of law enforcement officers and agencies and  
42 municipal courts concerning an offense committed or alleged to have been  
43 committed by a juvenile 14 or more years of age shall be subject to the

1 same disclosure restrictions as the records of adults. Information  
2 identifying victims and alleged victims of sex offenses, as defined in  
3 article 35 of chapter 21 of the Kansas Statutes Annotated, prior to their  
4 repeal, or article 55 of chapter 21 of the Kansas Statutes Annotated, and  
5 amendments thereto, K.S.A. 2020 Supp. 21-6419 through 21-6422, and  
6 amendments thereto, or human trafficking or aggravated human  
7 trafficking, as defined in K.S.A. 21-3446 or 21-3447, prior to their repeal,  
8 or K.S.A. 2020 Supp. 21-5426, and amendments thereto, shall not be  
9 disclosed or open to public inspection under any circumstances. Nothing in  
10 this section shall prohibit the victim or any alleged victim of any sex  
11 offense from voluntarily disclosing such victim's identity.

12 (d) Relevant information, reports and records, shall be made available  
13 to the department of corrections upon request and a showing that the  
14 former juvenile has been convicted of a crime and placed in the custody of  
15 the secretary of corrections.

16 (e) All records, reports and information obtained as a part of the  
17 juvenile intake and assessment process for juveniles shall be confidential,  
18 and shall not be disclosed except as provided by statutory law and rules  
19 and regulations promulgated by the secretary.

20 (1) Any court of record may order the disclosure of such records,  
21 reports and other information to any person or entity.

22 (2) The head of any juvenile intake and assessment program, certified  
23 by the secretary, may authorize disclosure of such records, reports and  
24 other information to:

25 (A) A person licensed to practice the healing arts who has before that  
26 person a juvenile whom the person reasonably suspects may be abused or  
27 neglected;

28 (B) a court-appointed special advocate for a juvenile or an agency  
29 having the legal responsibility or authorization to care for, treat or  
30 supervise a juvenile;

31 (C) a parent or other person responsible for the welfare of a juvenile,  
32 or such person's legal representative, with protection for the identity of  
33 persons reporting and other appropriate persons;

34 (D) the juvenile, the attorney and a guardian ad litem, if any, for such  
35 juvenile;

36 (E) the police or other law enforcement agency;

37 (F) an agency charged with the responsibility of preventing or  
38 treating physical, mental or emotional abuse or neglect or sexual abuse of  
39 children, if the agency requesting the information has standards of  
40 confidentiality as strict or stricter than the requirements of the Kansas code  
41 for care of children or the revised Kansas juvenile justice code, whichever  
42 is applicable;

43 (G) members of a multidisciplinary team under this code;

1 (H) an agency authorized by a properly constituted authority to  
2 diagnose, care for, treat or supervise a child who is the subject of a report  
3 or record of child abuse or neglect;

4 (I) any individual, or public or private agency authorized by a  
5 properly constituted authority to diagnose, care for, treat or supervise a  
6 juvenile who is the subject of a report or record of child abuse or neglect,  
7 specifically including the following: Physicians, psychiatrists, nurses,  
8 nurse practitioners, psychologists, licensed social workers, child  
9 development specialists, physician assistants, community mental health  
10 workers, addiction counselors and licensed or registered child care  
11 providers;

12 (J) a citizen review board pursuant to K.S.A. 2020 Supp. 38-2207,  
13 and amendments thereto;

14 (K) an educational institution to the extent necessary to enable such  
15 institution to provide the safest possible environment for pupils and  
16 employees of the institution;

17 (L) any educator to the extent necessary for the protection of the  
18 educator and pupils;

19 (M) any juvenile intake and assessment worker of another certified  
20 juvenile intake and assessment program; ~~and~~

21 (N) the interstate compact for juveniles compact administrator for the  
22 purpose of carrying out the responsibilities related to the interstate  
23 compact for juveniles; *and*

24 *(O) the office of the child advocate pursuant to the child advocate*  
25 *act.*

26 Sec. 12. K.S.A. 2020 Supp. 38-2211, 38-2212, 38-2213, 38-2309 and  
27 38-2310 are hereby repealed.

28 Sec. 13. This act shall take effect and be in force from and after its  
29 publication in the statute book.