

HOUSE BILL No. 2530

By Committee on Children and Seniors

1-23

1 AN ACT concerning reports of abuse; relating to abuse, neglect or
2 exploitation of certain adults ~~and children; animal control officers~~
3 ~~and persons investigating suspected cruelty to animals~~; emergency
4 medical services personnel; amending K.S.A. 2017 Supp. **38-2223**, 39-
5 1402 and 39-1431 and repealing the existing sections.
6

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

8 **Section 1.** K.S.A. 2017 Supp. **38-2223** is hereby amended to read
9 as follows: **38-2223.** (a) *Persons making reports.* (1) When any of the
10 following persons has reason to suspect that a child has been harmed
11 as a result of physical, mental or emotional abuse or neglect or sexual
12 abuse, the person shall report the matter promptly as provided in
13 subsections (b) and (c);

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

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

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

32 (D) firefighters, emergency medical services personnel, law
33 enforcement officers, juvenile intake and assessment workers, court
34 services officers, community corrections officers, case managers

1 appointed under K.S.A. 2017 Supp. 23-3508, and amendments thereto,
2 and mediators appointed under K.S.A. 2017 Supp. 23-3502, and
3 amendments thereto; ~~and~~

4 (E) any person employed by or who works as a volunteer for any
5 organization, whether for profit or not-for-profit, that provides social
6 services to pregnant teenagers, including, but not limited to,
7 counseling, adoption services and pregnancy education and
8 maintenance; *and*

9 ~~(F) animal control officers, as defined in K.S.A. 47-1701, and~~
10 ~~amendments thereto, and persons authorized to take custody of an animal~~
11 ~~pursuant to K.S.A. 2017 Supp. 21-6412(e), and amendments thereto, when~~
12 ~~investigating suspected cruelty of animals.~~

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

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

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

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

34 (1) When the Kansas department for children and families is not
35 open for business, reports shall be made to the appropriate law
36 enforcement agency. On the next day that the department is open for
37 business, the law enforcement agency shall report to the department
38 any report received and any investigation initiated pursuant to K.S.A.
39 2017 Supp. 38-2226, and amendments thereto. The reports may be
40 made orally or, on request of the secretary, in writing.

41 (2) Reports of child abuse or neglect occurring in an institution
42 operated by the Kansas department of corrections shall be made to
43 the attorney general ~~or~~ {and} the secretary of corrections. Reports of

1 child abuse or neglect occurring in an institution operated by the
2 Kansas department for aging and disability services shall be made to
3 the appropriate law enforcement agency. All other reports of child
4 abuse or neglect by persons employed by the Kansas department for
5 aging and disability services or the Kansas department for children
6 and families, or of children of persons employed by either department,
7 shall be made to the appropriate law enforcement agency.

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

12 (e) *Violations.* (1) Willful and knowing failure to make a report
13 required by this section is a class B misdemeanor. It is not a defense
14 that another mandatory reporter made a report.

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

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

20 (f) *Immunity from liability.* Anyone who, without malice,
21 participates in the making of a report to the secretary or a law
22 enforcement agency relating to a suspicion a child may be a child in
23 need of care or who participates in any activity or investigation
24 relating to the report or who participates in any judicial proceeding
25 resulting from the report shall have immunity from any civil liability
26 that might otherwise be incurred or imposed.

27 ~~See.~~ **Sec. 2.** K.S.A. 2017 Supp. 39-1402 is hereby amended to read
28 as follows: 39-1402. (a) Any person who is licensed to practice any branch
29 of the healing arts, a licensed psychologist, a licensed master level
30 psychologist, a licensed clinical psychotherapist, a chief administrative
31 officer of a medical care facility, an adult care home administrator or
32 operator, a licensed social worker, a licensed professional nurse, a licensed
33 practical nurse, a licensed marriage and family therapist, a licensed clinical
34 marriage and family therapist, licensed professional counselor, licensed
35 clinical professional counselor, registered alcohol and drug abuse
36 counselor, a teacher, a bank trust officer and any other officers of financial
37 institutions, a legal representative ~~or~~, a governmental assistance provider
38 *or an emergency medical services attendant* who has reasonable cause to
39 believe that a resident is being or has been abused, neglected or exploited,
40 or is in a condition which is the result of such abuse, neglect or
41 exploitation or is in need of protective services, shall report immediately
42 such information or cause a report of such information to be made in any
43 reasonable manner to the Kansas department for aging and disability

1 services with respect to residents defined under ~~subsection (a)(1)~~ of K.S.A.
2 39-1401(a)(1), and amendments thereto, to the department of health and
3 environment with respect to residents defined under ~~subsection (a)(2)~~ of
4 K.S.A. 39-1401(a)(2), and amendments thereto, and to the Kansas
5 department for children and families and appropriate law enforcement
6 agencies with respect to all other residents. Reports made to one
7 department which are required by this subsection to be made to the other
8 department shall be referred by the department to which the report is made
9 to the appropriate department for that report, and any such report shall
10 constitute compliance with this subsection. Reports shall be made during
11 the normal working week days and hours of operation of such
12 departments. Reports shall be made to law enforcement agencies during
13 the time the departments are not open for business. Law enforcement
14 agencies shall submit the report and appropriate information to the
15 appropriate department on the first working day that such department is
16 open for business. A report made pursuant to K.S.A. 65-4923 or 65-4924,
17 and amendments thereto, shall be deemed a report under this section.

18 (b) The report made pursuant to subsection (a) shall contain the name
19 and address of the person making the report and of the caretaker caring for
20 the resident, the name and address of the involved resident, information
21 regarding the nature and extent of the abuse, neglect or exploitation, the
22 name of the next of kin of the resident, if known, and any other
23 information which the person making the report believes might be helpful
24 in an investigation of the case and the protection of the resident.

25 (c) Any other person, not listed in subsection (a), having reasonable
26 cause to suspect or believe that a resident is being or has been abused,
27 neglected or exploited, or is in a condition which is the result of such
28 abuse, neglect or exploitation or is in need of protective services may
29 report such information to the Kansas department for aging and disability
30 services with respect to residents defined under ~~subsection (a)(1)~~ of K.S.A.
31 39-1401(a)(1), and amendments thereto, to the department of health and
32 environment with respect to residents defined under ~~subsection (a)(2)~~ of
33 K.S.A. 39-1401(a)(2), and amendments thereto, and to the Kansas
34 department for children and families with respect to all other residents.
35 Reports made to one department which are to be made to the other
36 department under this section shall be referred by the department to which
37 the report is made to the appropriate department for that report.

38 (d) Notice of the requirements of this act and the department to which
39 a report is to be made under this act shall be posted in a conspicuous
40 public place in every adult care home and medical care facility in this
41 state.

42 (e) Any person required to report information or cause a report of
43 information to be made under subsection (a) who knowingly fails to make

1 such report or cause such report to be made shall be guilty of a class B
2 misdemeanor.

3 ~~Sec. 2.~~ **3.** K.S.A. 2017 Supp. 39-1431 is hereby amended to read as
4 follows: 39-1431. (a) Any person who is licensed to practice any branch of
5 the healing arts, a licensed psychologist, a licensed master level
6 psychologist, a licensed clinical psychotherapist, the chief administrative
7 officer of a medical care facility, a teacher, a licensed social worker, a
8 licensed professional nurse, a licensed practical nurse, a licensed dentist, a
9 licensed marriage and family therapist, a licensed clinical marriage and
10 family therapist, licensed professional counselor, licensed clinical
11 professional counselor, registered alcohol and drug abuse counselor, a law
12 enforcement officer, ~~an animal control officer, as defined in K.S.A. 47-~~
13 ~~1701, and amendments thereto, a person investigating suspected~~
14 ~~cruelty to animals who is authorized to take custody of an animal~~
15 ~~pursuant to K.S.A. 2017 Supp. 21-6412(e), and amendments thereto,~~
16 *an emergency medical services attendant*, a case manager, a rehabilitation
17 counselor, a bank trust officer or any other officers of financial institutions,
18 a legal representative, a governmental assistance provider, an owner or
19 operator of a residential care facility, an independent living counselor and
20 the chief administrative officer of a licensed home health agency, the chief
21 administrative officer of an adult family home and the chief administrative
22 officer of a provider of community services and affiliates thereof operated
23 or funded by the Kansas department for aging and disability services or
24 licensed under K.S.A.—~~75-3307b~~ *2017 Supp. 39-2001 et seq.*, and
25 amendments thereto, who has reasonable cause to believe that an adult is
26 being or has been abused, neglected or exploited or is in need of protective
27 services shall report, immediately from receipt of the information, such
28 information or cause a report of such information to be made in any
29 reasonable manner. An employee of a domestic violence center shall not
30 be required to report information or cause a report of information to be
31 made under this subsection. Other state agencies receiving reports that are
32 to be referred to the Kansas department for children and families and the
33 appropriate law enforcement agency, shall submit the report to the
34 department and agency within six hours, during normal work days, of
35 receiving the information. Reports shall be made to the Kansas department
36 for children and families during the normal working week days and hours
37 of operation. Reports shall be made to law enforcement agencies during
38 the time the Kansas department for children and families is not in
39 operation. Law enforcement shall submit the report and appropriate
40 information to the Kansas department for children and families on the first
41 working day that the Kansas department for children and families is in
42 operation after receipt of such information.

43 (b) The report made pursuant to subsection (a) shall contain the name

1 and address of the person making the report and of the caretaker caring for
2 the involved adult, the name and address of the involved adult, information
3 regarding the nature and extent of the abuse, neglect or exploitation, the
4 name of the next of kin of the involved adult, if known, and any other
5 information which the person making the report believes might be helpful
6 in the investigation of the case and the protection of the involved adult.

7 (c) Any other person, not listed in subsection (a), having reasonable
8 cause to suspect or believe that an adult is being or has been abused,
9 neglected or exploited or is in need of protective services may report such
10 information to the Kansas department for children and families. Reports
11 shall be made to law enforcement agencies during the time the Kansas
12 department for children and families is not in operation.

13 (d) A person making a report under subsection (a) shall not be
14 required to make a report under K.S.A. 39-1401 ~~to~~ *through* 39-1410,
15 ~~inclusive~~, and amendments thereto.

16 (e) Any person required to report information or cause a report of
17 information to be made under subsection (a) who knowingly fails to make
18 such report or cause such report not to be made shall be guilty of a class B
19 misdemeanor.

20 (f) Notice of the requirements of this act and the department to which
21 a report is to be made under this act shall be posted in a conspicuous
22 public place in every adult family home as defined in K.S.A. 39-1501, and
23 amendments thereto, and every provider of community services and
24 affiliates thereof operated or funded by the Kansas department for aging
25 and disability services or other facility licensed under K.S.A. ~~75-3307b~~
26 *2017 Supp. 39-2001 et seq.*, and amendments thereto, and other
27 institutions included in subsection (a).

28 ~~Sec.-3.~~ **4.** K.S.A. 2017 Supp. ~~38-2223~~, 39-1402 and 39-1431 are
29 hereby repealed.

30 ~~Sec.-4.~~ **5.** This act shall take effect and be in force from and after its
31 publication in the statute book.