

HOUSE BILL No. 2706

By Committee on Judiciary

2-7

1 AN ACT concerning sexual assault examinations; relating to child
2 advocacy centers; amending K.S.A. 2017 Supp. 38-2227 and 65-448
3 and repealing the existing sections.
4

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

6 Section 1. K.S.A. 2017 Supp. 38-2227 is hereby amended to read as
7 follows: 38-2227. (a) A child advocacy center in this state shall:

8 (1) Be a private, nonprofit incorporated agency or a governmental
9 entity.

10 (2) Have a neutral, child-focused facility where forensic interviews
11 take place with children in appropriate cases of suspected or alleged
12 physical, mental or emotional abuse or sexual abuse. All agencies shall
13 have a place to interact with the child as investigative or treatment needs
14 require.

15 (3) Have a minimum designated staff that is supervised and approved
16 by the local board of directors or governmental entity.

17 (4) Have a multidisciplinary team that meets on a regularly scheduled
18 basis or as the caseload of the community requires. The team shall include,
19 but not be limited to, representatives from the state or local office
20 prosecuting such case, law enforcement, child protective services, mental
21 health services, a victim's advocate, child advocacy center staff and
22 medical personnel.

23 (5) Provide case tracking of child abuse cases seen through the center.
24 A center shall also collect data on the number of child abuse cases seen at
25 the center, by sex, race, age, and other relevant data, the number of cases
26 referred for prosecution, and the number of cases referred for medical
27 services or mental health therapy.

28 (6) Provide medical exam services, *including performing sexual*
29 *assault evidence collections pursuant to K.S.A. 65-448, and amendments*
30 *thereto*, or mental health therapy, or both, on site at the child advocacy
31 center, or provide referrals for medical exams or mental health therapy, or
32 both, to a facility not on the site of the child advocacy center.

33 (7) Have an interagency commitment, in writing, covering those
34 aspects of agency participation in a multidisciplinary approach to the
35 handling of cases involving physical, mental or emotional abuse.

36 (8) Provide that child advocacy center employees and volunteers at

1 the center are trained and screened in accordance with K.S.A. 65-516, and
2 amendments thereto.

3 (9) Provide training for child advocacy center staff who interview
4 children in forensic children's interview technique.

5 (b) Any child advocacy center within this state that meets the
6 standards prescribed by this section shall be eligible to receive state funds
7 that are appropriated by the legislature.

8 Sec. 2. K.S.A. 2017 Supp. 65-448 is hereby amended to read as
9 follows: 65-448. (a) Upon the request of any law enforcement officer and
10 with the written consent of the reported victim, or upon the request of the
11 victim, any physician, a licensed physician assistant, who has been
12 specially trained in performing sexual assault evidence collection, or a
13 registered professional nurse, who has been specially trained in performing
14 sexual assault evidence collection, on call or on duty at a medical care
15 facility of this state, as defined by K.S.A. 65-425(h), and amendments
16 thereto, *or at a child advocacy center established pursuant to K.S.A. 2017*
17 *Supp. 38-2227, and amendments thereto*, shall examine persons who may
18 be victims of sexual offenses cognizable as violations of K.S.A. 2017
19 Supp. 21-5503, 21-5504, 21-5506 or 21-5604, and amendments thereto,
20 using Kansas bureau of investigation sexual assault evidence collection
21 kits or similar kits approved by the Kansas bureau of investigation, for the
22 purposes of gathering evidence of any such crime. If an examination has
23 taken place solely upon the request of the victim, the medical care facility
24 *or child advocacy center* shall not notify any law enforcement agency
25 without the written consent of the victim, unless otherwise required by
26 law. If the physician, licensed physician assistant or registered professional
27 nurse refuses to perform such physical examination the prosecuting
28 attorney is hereby empowered to seek a mandatory injunction against such
29 physician, licensed physician assistant or registered professional nurse to
30 enforce the provisions of this act. Any refusal by a physician, licensed
31 physician assistant or registered professional nurse to perform an
32 examination which has been requested pursuant to this section shall be
33 reported by the county or district attorney to the state board of healing arts
34 or the board of nursing, whichever is applicable, for appropriate
35 disciplinary action. The department of health and environment, in
36 cooperation with the Kansas bureau of investigation, shall establish
37 procedures for gathering evidence pursuant to this section. A minor may
38 consent to examination under this section. Such consent is not subject to
39 disaffirmance because of minority, and consent of parent or guardian of the
40 minor is not required for such examination. ~~The hospital or medical care~~
41 *facility or child advocacy center* shall give written notice to the parent or
42 guardian of a minor that such an examination has taken place, except
43 when: (1) ~~The hospital or medical care facility or child advocacy center~~

1 has information that a parent, guardian or family or household member is
2 the subject of a related criminal investigation; or (2) the physician,
3 licensed physician assistant or registered professional nurse, after
4 consultation with law enforcement, reasonably believes that the child will
5 be harmed if such notice is given.

6 (b) All sexual assault kits collected that are not released to law
7 enforcement shall be sealed by either the sexual assault nurse examiner
8 program or the *medical care facility or child advocacy center* that
9 provided the examination and kept for five years in the evidence storage
10 facilities of the Kansas bureau of investigation. After five years, such kits
11 shall be destroyed by the Kansas bureau of investigation.

12 (c) The fee chargeable for conducting an examination of a victim as
13 herein provided shall be established by the department of health and
14 environment. Such fee, including the cost of the sexual assault evidence
15 collection kit, shall be charged to and paid by the county where the alleged
16 offense was committed, and refusal of the victim to report the alleged
17 offense to law enforcement shall not excuse or exempt the county from
18 paying such fee. The fee for conducting an examination of a victim as
19 herein provided shall not be charged or billed to the victim or to the
20 victim's insurance carrier. Such county shall be reimbursed such fee upon
21 the costs being paid by the defendant as court costs assessed pursuant to
22 K.S.A. 28-172a, and amendments thereto.

23 (d) No medical care facility *or child advocacy center* shall incur any
24 civil, administrative or criminal liability as a result of notifying or failing
25 to notify any law enforcement agency if an examination has taken place
26 solely upon the request of the victim and such notification is not otherwise
27 required by law.

28 (e) The Kansas bureau of investigation may adopt rules and
29 regulations as deemed necessary to implement the provisions of this
30 section.

31 Sec. 3. K.S.A. 2017 Supp. 38-2227 and 65-448 are hereby repealed.

32 Sec. 4. This act shall take effect and be in force from and after its
33 publication in the statute book.