

2023 Kansas Statutes

38-2217. Health services. (a) Physical or mental care and treatment. (1) When a child less than 18 years of age is alleged to have been physically, mentally or emotionally abused or neglected or sexually abused, no consent shall be required to medically examine the child to determine whether the child has been abused or neglected. Unless the child is alleged or suspected to have been abused by the parent or guardian, the investigating officer shall notify or attempt to notify the parent or guardian of the medical examination of the child.

(2) When the health or condition of a child who is subject to jurisdiction of the court requires it, the court may consent to the performing and furnishing of hospital, medical, surgical or dental treatment or procedures, including the release and inspection of medical or dental records. A child, or parent of any child, who is opposed to certain medical procedures authorized by this subsection may request an opportunity for a hearing thereon before the court. Subsequent to the hearing, the court may limit the performance of matters provided for in this subsection or may authorize the performance of those matters subject to terms and conditions the court considers proper.

(3) The custodian or agent of the custodian is the personal representative for the purpose of consenting to disclosure of otherwise protected health information and may give consent to the following:

- (A) Dental treatment for the child by a licensed dentist;
- (B) diagnostic examinations of the child, including but not limited to the withdrawal of blood or other body fluids, x-rays and other laboratory examinations;
- (C) releases and inspections of the child's medical history records;
- (D) immunizations for the child;
- (E) administration of lawfully prescribed drugs to the child;
- (F) examinations of the child including, but not limited to, the withdrawal of blood or other body fluids or tissues for the purpose of determining the child's parentage; and
- (G) subject to limitations in K.S.A. 59-3075(e)(4), (5) and (6), and amendments thereto, medical or surgical care determined by a physician to be necessary for the welfare of such child, if the parents are not available or refuse to consent.

(4) When the court has adjudicated a child to be in need of care, the custodian or an agent designated by the custodian is the personal representative for the purpose of consenting to disclosure of otherwise protected health information and shall have authority to consent to the performance and furnishing of hospital, medical, surgical or dental treatment or procedures or mental care or treatment other than inpatient treatment at a state psychiatric hospital, including the release and inspection of medical or hospital records, subject to terms and conditions the court considers proper and subject to the limitations of K.S.A. 59-3075 (e)(4), (5) and (6), and amendments thereto.

(5) Any health care provider who in good faith renders hospital, medical, surgical, mental or dental care or treatment to any child or discloses protected health information as authorized by this section shall not be liable in any civil or criminal action for failure to obtain consent of a parent.

(6) Nothing in this section shall be construed to mean that any person shall be relieved of legal responsibility to provide care and support for a child.

(b) Care and treatment requiring court action. If it is brought to the court's attention, while the court is exercising jurisdiction over the person of a child under this code, that the child may be a mentally ill person as defined in K.S.A. 59-2946, and amendments thereto, or a person with an alcohol or substance abuse problem as defined in K.S.A. 59-29b46, and amendments thereto, the court may:

(1) Direct or authorize the county or district attorney or the person supplying the information to file the petition provided for in K.S.A. 59-2957, and amendments thereto, and proceed to hear and determine the issues raised by the application as provided in the care and treatment act for mentally ill persons or the petition provided for in K.S.A. 59-29b57, and amendments thereto, and proceed to hear and determine the issues raised by the application as provided in the care and treatment act for persons with an alcohol or substance abuse problem; or

(2) authorize that the child seek voluntary admission to a treatment facility as provided in K.S.A. 59-2949, and amendments thereto, or K.S.A. 59-29b49, and amendments thereto.

The application to determine whether the child is a mentally ill person or a person with an alcohol or substance abuse problem may be filed in the same proceedings as the petition alleging the child to be a child in need of care, or may be brought in separate proceedings. In either event, the court may enter an order staying any further proceedings under this code until all proceedings have been concluded under the care and treatment act for mentally ill persons or the care and treatment act for persons with an alcohol or substance abuse problem.

History: L. 2006, ch. 200, § 12; L. 2008, ch. 169, § 4; July 1.