

HOUSE BILL No. 2019

By Representative Ousley

6-3

1 AN ACT establishing the office of the child advocate for children's
2 protection and services within the department of administration;
3 prescribing certain powers, duties and functions; amending K.S.A.
4 2019 Supp. 38-2211, 38-2212, 38-2213, 38-2309 and 38-2310 and
5 repealing the existing sections.
6

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

8 New Section 1. As used in sections 1 through 8, and amendments
9 thereto:

10 (a) "Office" means the office of the child advocate for children's
11 protection and services within the department of administration and
12 includes the child advocate and staff; and

13 (b) "recipient" means any child who is receiving services from the
14 Kansas department for children and families.

15 New Sec. 2. (a) There is hereby established within the department of
16 administration the office of the child advocate for children's protection and
17 services for the purpose of assuring that children receive adequate
18 protection and care through services offered by the Kansas department for
19 children and families.

20 (b) The office shall be administered by the child advocate, who shall
21 be appointed by the governor, subject to confirmation by the senate as
22 provided in K.S.A. 75-4315b, and amendments thereto. The child advocate
23 shall report directly to the secretary of administration. The child advocate
24 shall hold office for a term of six years and shall continue to hold office
25 until a successor has been duly appointed. The child advocate shall act
26 independently of the Kansas department for children and families in the
27 performance of the child advocate's duties. The department of
28 administration shall provide administrative support and staff to the office
29 as deemed necessary by the child advocate.

30 (c) For the fiscal year ending June 30, 2021, and for each fiscal year
31 thereafter, the secretary of administration shall include the budget estimate
32 of the office, as prepared and approved by the child advocate, with the
33 budget estimate prepared and submitted to the division of the budget for
34 the department of administration under K.S.A. 75-3717, and amendments
35 thereto. Expenditures from appropriations to the department of
36 administration for the office, made pursuant to budget estimates for the

1 office, shall be made on vouchers approved by the child advocate or the
2 child advocate's designee. All vouchers for expenditures and all payrolls of
3 the office shall be approved by the child advocate or the child advocate's
4 designee.

5 New Sec. 3. (a) The office of the child advocate for children's
6 protection and services shall have access to the following information:

7 (1) The names and physical location of all children in protective
8 services, treatment or other programs under the jurisdiction of the Kansas
9 department for children and families;

10 (2) all written reports of child abuse and neglect; and

11 (3) all current records required to be maintained pursuant to articles
12 22 and 23 of chapter 38 of the Kansas Statutes Annotated, and
13 amendments thereto.

14 (b) The office shall have the authority to:

15 (1) Communicate privately with any child under protective services
16 and anyone working with the child, including the family, relatives,
17 employees of the Kansas department for children and families and other
18 persons or entities providing treatment and services;

19 (2) access, including the right to inspect, copy and subpoena, relevant
20 child records held by the clerk of any Kansas court, public or private
21 institutions and other agencies or persons with whom a particular child has
22 been either voluntarily or otherwise placed for care or from whom the
23 child has received treatment within this state or in another state;

24 (3) work in conjunction with guardians ad litem;

25 (4) file any findings or reports of the child advocate regarding the
26 parent or child with the appropriate court and issue recommendations
27 regarding the disposition of an investigation to the court and to the
28 investigating agency;

29 (5) file amicus curiae briefs on behalf of the interests of the parent or
30 child;

31 (6) utilize the resources of the office of the attorney general, as
32 necessary, to carry out any duties of the child advocate for children's
33 protection and services that require legal counsel or services, as authorized
34 pursuant to sections 1 through 8, and amendments thereto;

35 (7) initiate meetings with personnel from the Kansas department for
36 children and families;

37 (8) take whatever steps are appropriate to ensure that individuals are
38 made aware of the services of the office, its purpose and how it can be
39 contacted;

40 (9) apply for and accept grants, gifts and bequests of moneys from
41 other state, interstate or federal agencies, independent authorities, private
42 firms, individuals and foundations to carry out the child advocate's duties
43 and responsibilities. The moneys shall be deposited in a dedicated account

1 established within the office to permit moneys to be expended in
2 accordance with the provisions of the grant or bequest; and

3 (10) subject to appropriations, establish local panels as needed on a
4 regional or county basis to adequately and efficiently carry out the
5 functions and duties of the office and address complaints in a timely
6 manner.

7 (c) (1) For any information obtained from a state agency or other
8 entity under sections 1 through 8, and amendments thereto, the office shall
9 be subject to the same state and federal statutory disclosure restrictions and
10 confidentiality requirements that are applicable to the state agency or other
11 entity providing such information to the office.

12 (2) The provisions of this subsection providing for confidentiality of
13 records shall expire on July 1, 2025, unless the legislature reenacts such
14 provisions. The legislature shall review this subsection pursuant to K.S.A.
15 45-229, and amendments thereto, prior to July 1, 2025.

16 New Sec. 4. (a) The office of the child advocate for children's
17 protection and services shall establish and implement procedures for
18 receiving, processing, responding to and resolving complaints made by or
19 on behalf of children who are recipients of services from the Kansas
20 department for children and families. Such procedures shall address
21 complaints relating to the actions, inactions or decisions of service
22 providers, including contractors, subcontractors and any juvenile court,
23 that may adversely affect the health, safety, welfare or rights of such
24 recipient.

25 (b) The office shall have the authority to make the necessary inquiries
26 and review relevant information and records as the office deems necessary.

27 (c) The office may recommend to any state or local agency changes
28 in the rules and regulations adopted or proposed by such state or local
29 agency that adversely affect or may adversely affect the health, safety,
30 welfare or civil or human rights of any recipient. The office shall
31 recommend changes to any current policies and procedures. The office
32 shall analyze and monitor the development and implementation of federal,
33 state and local laws, rules and regulations and policies with respect to
34 services in the state and shall recommend to the Kansas department for
35 children and families, courts, the legislature and the governor changes in
36 such laws, rules and regulations and policies deemed by the office to be
37 appropriate.

38 (d) The office shall inform recipients, their guardians or their families
39 of their rights and entitlements under state and federal laws and rules and
40 regulations through the distribution of educational materials.

41 (e) The office shall annually submit to the governor, the legislature
42 and the supreme court a detailed report on the work of the office. Such
43 report shall include, but not be limited to, the number of complaints

1 received by the office, the disposition of such complaints, the number of
2 recipients involved in such complaints, the state entities named in such
3 complaints, whether such complaints were found to be substantiated and
4 any recommendations for improving the delivery of services to reduce
5 complaints or improving the function of the office.

6 New Sec. 5. (a) The office of the child advocate for children's
7 protection and services shall have the authority to and may conduct an
8 independent review of any entity within a county that has experienced
9 three or more reports of child abuse or neglect in a calendar year,
10 including, but not limited to, the Kansas department for children and
11 families or any guardian ad litem. The office shall establish and implement
12 procedures for reviewing any such entity.

13 (b) The office shall have the authority to make the necessary inquiries
14 and review relevant information and records as the office deems necessary
15 in order to conduct such reviews.

16 (c) The office may recommend changes to any entity's policies and
17 procedures based on the results of the review in order to improve the
18 delivery of services or the function of the entity. Upon completing a
19 review under this section, the office shall submit any findings and
20 recommendations to the Kansas department for children and families.

21 New Sec. 6. (a) The secretary for children and families shall enter
22 into agreements with the office of the child advocate for children's
23 protection and services for the provision of financial assistance to the
24 office by the Kansas department for children and families from available
25 state and federal funds of the Kansas department for children and families.
26 This financial assistance shall be to assist the child advocate to provide
27 child advocacy services in accordance with sections 1 through 8, and
28 amendments thereto.

29 (b) For the fiscal year ending June 30, 2021, and for each fiscal year
30 thereafter, the secretary for children and families shall include in the
31 budget estimates prepared and submitted to the division of the budget for
32 the Kansas department for children and families under K.S.A. 75-3717,
33 and amendments thereto, in addition to other amounts included in such
34 budget estimates for the Kansas department for children and families,
35 amounts to be provided to the office during such fiscal year pursuant to
36 this section. The amounts included in each such budget estimate to be
37 provided to the office shall include amounts to be appropriated from
38 federal moneys provided to the Kansas department for children and
39 families. Commencing in the fiscal year ending on June 30, 2022, in no
40 case shall the aggregate of the amounts included in any such budget
41 estimates of the Kansas department for children and families that are to be
42 provided to the office be less than the aggregate of all moneys provided
43 during the fiscal year ending June 30, 2021, by the Kansas department for

1 children and families for the office from appropriations to the Kansas
2 department for children and families, including moneys received under
3 federal programs for children. The aggregate amounts included in each
4 such budget estimates of the Kansas department for children and families
5 that are to be provided to the office shall be adjusted appropriately for
6 increases attributable to inflation and other applicable factors.

7 New Sec. 7. (a) The identity of any complainant or recipient shall not
8 be disclosed by the office unless:

9 (1) The complainant or recipient, respectively, or the complainant's or
10 recipient's legal representative, consents in writing to such disclosure; or

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

12 (b) Any statement or communication made by the office relevant to a
13 complaint being addressed by the office and any complaint or information
14 made or provided in good faith by any person shall be absolutely
15 privileged, and such person shall be immune from suit for such statement,
16 communication, complaint or information.

17 (c) Any representative of the office conducting or participating in any
18 examination of a complaint who knowingly and willfully discloses to any
19 person other than the office, or those persons authorized by the office to
20 receive it, the name of any witness examined or any information obtained
21 or given during such examination shall be guilty of a class A nonperson
22 misdemeanor. The office conducting or participating in any examination of
23 a complaint shall disclose the final result of the examination with the
24 consent of the recipient.

25 (d) The office shall not be required to testify in any court with respect
26 to matters held to be confidential in this section, except as the court may
27 deem necessary to enforce the provisions of sections 1 through 8, and
28 amendments thereto, or when otherwise required by court order.

29 (e) The provisions of this section providing for confidentiality of
30 records shall expire on July 1, 2025, unless the legislature reenacts such
31 provisions. The legislature shall review this section pursuant to K.S.A. 45-
32 229, and amendments thereto, prior to July 1, 2025.

33 New Sec. 8. (a) Any employee of the office of the child advocate for
34 children's protection and services shall be treated as a representative of the
35 office. No representative of the office shall be held liable for the good faith
36 performance of such representative's official duties under the provisions of
37 sections 1 through 8, and amendments thereto, and such representative
38 shall be immune from suit for the good faith performance of such duties.
39 Every representative of the office shall be considered an employee of the
40 state of Kansas.

41 (b) (1) Except as provided in paragraph (2), no reprisal or retaliatory
42 action shall be taken against any recipient or employee of the Kansas
43 department for children and families for any communication made or

1 information given to the office. Any person who knowingly or willfully
2 violates the provisions of this paragraph shall be guilty of a class A
3 nonperson misdemeanor.

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

5 (A) Information that such employee knows to be false or who
6 discloses information with disregard for the truth or falsity of the
7 information; or

8 (B) without lawful authority, information that is confidential under
9 any other provision of law.

10 (c) As used in this section, "reprisal or retaliatory action" includes,
11 but is not limited to:

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

13 (2) transfer;

14 (3) demotion;

15 (4) reduction in pay;

16 (5) denial of promotion;

17 (6) suspension;

18 (7) dismissal; and

19 (8) denial of employment.

20 Sec. 9. K.S.A. 2019 Supp. 38-2211 is hereby amended to read as
21 follows: 38-2211. (a) *Access to the official file*. The following persons or
22 entities shall have access to the official file of a child in need of care
23 proceeding pursuant to this code:

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

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

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

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

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

37 (6) A citizen review board.

38 (7) The secretary of corrections or any agents designated by the
39 secretary of corrections.

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

42 (9) Any other person when authorized by a court order, subject to any
43 conditions imposed by the order.

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

4 (11) *The office of the child advocate for children's protection and*
5 *services, pursuant to sections 1 through 8, and amendments thereto.*

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

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

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

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

15 (4) A court appointed special advocate for a child who is the subject
16 of the proceeding or a paid staff member of a court appointed special
17 advocate program.

18 (5) A citizen review board.

19 (6) The secretary.

20 (7) The secretary of corrections or any agents designated by the
21 secretary of corrections.

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

25 (9) *The office of the child advocate for children's protection and*
26 *services, pursuant to sections 1 through 8, and amendments thereto.*

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

29 (c) *Preservation of records.* The Kansas state historical society shall
30 be allowed to take possession for preservation in the state archives of any
31 court records related to proceedings under the Kansas code for care of
32 children whenever such records otherwise would be destroyed. No such
33 records in the custody of the Kansas state historical society shall be
34 disclosed directly or indirectly to anyone for 70 years after creation of the
35 records, except as provided in subsections (a) and (b). Pursuant to
36 subsections (a)(9) and (b)~~(9)~~(10), a judge of the district court may allow
37 inspection for research purposes of any court records in the custody of the
38 Kansas state historical society related to proceedings under the Kansas
39 code for care of children.

40 Sec. 10. K.S.A. 2019 Supp. 38-2212 is hereby amended to read as
41 follows: 38-2212. (a) *Principle of appropriate access.* Information
42 contained in confidential agency records concerning a child alleged or
43 adjudicated to be in need of care may be disclosed as provided in this

1 section. Disclosure shall in all cases be guided by the principle of
2 providing access only to persons or entities with a need for information
3 that is directly related to achieving the purposes of this code.

4 (b) *Free exchange of information.* Pursuant to K.S.A. 2019 Supp. 38-
5 2210, and amendments thereto, the secretary and juvenile intake and
6 assessment agencies shall participate in the free exchange of information
7 concerning a child who is alleged or adjudicated to be in need of care.

8 (c) *Necessary access.* The following persons or entities shall have
9 access to information from agency records. Access shall be limited to
10 information reasonably necessary to carry out their lawful responsibilities,
11 to maintain their personal safety and the personal safety of individuals in
12 their care, or to educate, diagnose, treat, care for or protect a child alleged
13 to be in need of care. Information authorized to be disclosed pursuant to
14 this subsection shall not contain information that identifies a reporter of a
15 child who is alleged or adjudicated to be a child in need of care.

16 (1) A child named in the report or records, a guardian ad litem
17 appointed for the child and the child's attorney.

18 (2) A parent or other person responsible for the welfare of a child, or
19 such person's legal representative.

20 (3) A court-appointed special advocate for a child, a citizen review
21 board or other advocate that reports to the court.

22 (4) A person licensed to practice the healing arts or mental health
23 profession in order to diagnose, care for, treat or supervise: (A) A child
24 whom such service provider reasonably suspects may be in need of care;
25 (B) a member of the child's family; or (C) a person who allegedly abused
26 or neglected the child.

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

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

32 (7) The state child death review board established under K.S.A. 22a-
33 243, and amendments thereto.

34 (8) An attorney for a private party who files a petition pursuant to
35 K.S.A. 2019 Supp. 38-2233(b), and amendments thereto.

36 (9) A foster parent, prospective foster parent, permanent custodian,
37 prospective permanent custodian, adoptive parent or prospective adoptive
38 parent. In order to assist such persons in making an informed decision
39 regarding acceptance of a particular child, to help the family anticipate
40 problems that may occur during the child's placement, and to help the
41 family meet the needs of the child in a constructive manner, the secretary
42 shall seek and shall provide the following information to such persons as
43 the information becomes available to the secretary:

- 1 (A) Strengths, needs and general behavior of the child;
2 (B) circumstances that necessitated placement;
3 (C) information about the child's family and the child's relationship to
4 the family that may affect the placement;
5 (D) important life experiences and relationships that may affect the
6 child's feelings, behavior, attitudes or adjustment;
7 (E) medical history of the child, including third-party coverage that
8 may be available to the child; and
9 (F) education history, to include present grade placement, special
10 strengths and weaknesses.
- 11 (10) The state protection and advocacy agency as provided by K.S.A.
12 65-5603(a)(10) or ~~K.S.A.~~ 74-5515(a)(2)(A) and (B), and amendments
13 thereto.
- 14 (11) Any educational institution to the extent necessary to enable the
15 educational institution to provide the safest possible environment for its
16 pupils and employees.
- 17 (12) Any educator to the extent necessary to enable the educator to
18 protect the personal safety of the educator and the educator's pupils.
- 19 (13) *The office of the child advocate for children's protection and*
20 *services, pursuant to sections 1 through 8, and amendments thereto.*
- 21 (14) Any other federal, state or local government executive branch
22 entity or any agent of such entity, having a need for such information in
23 order to carry out such entity's responsibilities under the law to protect
24 children from abuse and neglect.
- 25 (d) *Specified access.* The following persons or entities shall have
26 access to information contained in agency records as specified.
27 Information authorized to be disclosed pursuant to this subsection shall not
28 contain information that identifies a reporter of a child who is alleged or
29 adjudicated to be a child in need of care.
- 30 (1) Information from confidential agency records of the Kansas
31 department for children and families, a law enforcement agency or any
32 juvenile intake and assessment worker of a child alleged or adjudicated to
33 be in need of care shall be available to members of the standing house or
34 senate committee on judiciary, house committee on corrections and
35 juvenile justice, house committee on appropriations, senate committee on
36 ways and means, legislative post audit committee and any joint committee
37 with authority to consider children's and families' issues, when carrying
38 out such member's or committee's official functions in accordance with
39 K.S.A. 75-4319, and amendments thereto, in a closed or executive
40 meeting. Except in limited conditions established by $\frac{2}{3}$ of the members of
41 such committee, records and reports received by the committee shall not
42 be further disclosed. Unauthorized disclosure may subject such member to
43 discipline or censure from the house of representatives or senate. The

1 secretary for children and families shall not summarize the outcome of
2 department actions regarding a child alleged to be a child in need of care
3 in information available to members of such committees.

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

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

10 (A) The individuals involved or their representatives have given
11 express written consent; or

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

17 (e) *Court order.* Notwithstanding the provisions of this section, a
18 court of competent jurisdiction, after in camera inspection, may order
19 disclosure of confidential agency records pursuant to a determination that
20 the disclosure is in the best interests of the child who is the subject of the
21 reports or that the records are necessary for the proceedings of the court.
22 The court shall specify the terms of disclosure and impose appropriate
23 limitations.

24 (f) (1) Notwithstanding any other provision of law to the contrary,
25 except as provided in paragraph (6), in the event that child abuse or
26 neglect results in a child fatality or near fatality, reports or records of a
27 child alleged or adjudicated to be in need of care received by the secretary,
28 a law enforcement agency or any juvenile intake and assessment worker
29 shall become a public record and subject to disclosure pursuant to K.S.A.
30 45-215, and amendments thereto.

31 (2) Within seven days of receipt of a request in accordance with the
32 procedures adopted under K.S.A. 45-220, and amendments thereto, the
33 secretary shall notify any affected individual that an open records request
34 has been made concerning such records. The secretary or any affected
35 individual may file a motion requesting the court to prevent disclosure of
36 such record or report, or any select portion thereof. Notice of the filing of
37 such motion shall be provided to all parties requesting the records or
38 reports, and such party or parties shall have a right to hearing, upon
39 request, prior to the entry of any order on such motion. If the affected
40 individual does not file such motion within seven days of notification, and
41 the secretary has not filed a motion, the secretary shall release the reports
42 or records. If such motion is filed, the court shall consider the effect such
43 disclosure may have upon an ongoing criminal investigation, a pending

1 prosecution, or the privacy of the child, if living, or the child's siblings,
2 parents or guardians, and the public's interest in the disclosure of such
3 records or reports. The court shall make written findings on the record
4 justifying the closing of the records and shall provide a copy of the journal
5 entry to the affected parties and the individual requesting disclosure
6 pursuant to the Kansas open records act, K.S.A. 45-215 et seq., and
7 amendments thereto.

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

- 13 (A) Age and sex of the child;
- 14 (B) date of the fatality;
- 15 (C) a summary of any previous reports of abuse or neglect received
16 by the secretary involving the child, along with the findings of such
17 reports; and
- 18 (D) any department recommended services provided to the child.

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

- 25 (A) Age and sex of the child;
- 26 (B) date of the fatality; and
- 27 (C) a summary of the facts surrounding the death of the child.

28 (5) For reports or records requested pursuant to this subsection, the
29 time limitations specified in this subsection shall control to the extent of
30 any inconsistency between this subsection and K.S.A. 45-218, and
31 amendments thereto. As used in this section, "near fatality" means an act
32 that, as certified by a person licensed to practice medicine and surgery,
33 places the child in serious or critical condition.

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

39 Sec. 11. K.S.A. 2019 Supp. 38-2213 is hereby amended to read as
40 follows: 38-2213. (a) *Principle of limited disclosure.* Information
41 contained in confidential law enforcement records concerning a child
42 alleged or adjudicated to be in need of care may be disclosed as provided
43 in this section. Disclosure shall in all cases be guided by the principle of

1 providing access only to persons or entities with a need for information
2 that is directly related to achieving the purposes of this code.

3 (b) *Free exchange of information.* Pursuant to K.S.A. 2019 Supp. 38-
4 2210, and amendments thereto, a law enforcement agency shall participate
5 in the free exchange of information concerning a child who is alleged or
6 adjudicated to be in need of care.

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

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

13 (2) The secretary.

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

15 (4) Law enforcement officers or county or district attorneys or their
16 staff.

17 (5) Any juvenile intake and assessment worker.

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

19 (7) *The office of the child advocate for children's protection and*
20 *services, pursuant to sections 1 through 8, and amendments thereto.*

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

25 ~~(8)(9)~~ Persons or entities allowed access pursuant to ~~subsection (f)~~ of
26 K.S.A. 2019 Supp. 38-2212(f), and amendments thereto.

27 (d) *Necessary access.* The following persons or entities shall have
28 access to information from law enforcement records when reasonably
29 necessary to carry out their lawful responsibilities, to maintain their
30 personal safety and the personal safety of individuals in their care, or to
31 educate, diagnose, treat, care for or protect a child alleged or adjudicated
32 to be in need of care. Information authorized to be disclosed in this
33 subsection shall not contain information ~~which~~ *that* identifies a reporter of
34 a child alleged or adjudicated to be a child in need of care.

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

42 (2) School administrators shall have access to but shall not copy law
43 enforcement records and may disclose information to teachers,

1 paraprofessionals and other school personnel as necessary to meet the
2 educational needs of the child or to protect the safety of students and
3 school employees.

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

10 (e) *Legislative access.* Information from law enforcement records of a
11 child alleged or adjudicated to be in need of care shall be available to
12 members of the standing house or senate committee on judiciary, house
13 committee on corrections and juvenile justice, house committee on
14 appropriations, senate committee on ways and means, legislative post audit
15 committee and any joint committee with authority to consider children's
16 and families' issues, when carrying out such member's or committee's
17 official functions in accordance with K.S.A. 75-4319, and amendments
18 thereto, in a closed or executive meeting. Except in limited conditions
19 established by $\frac{2}{3}$ of the members of such committee, records and reports
20 received by the committee shall not be further disclosed. Unauthorized
21 disclosure may subject such member to discipline or censure from the
22 house of representatives or senate.

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

30 Sec. 12. K.S.A. 2019 Supp. 38-2309 is hereby amended to read as
31 follows: 38-2309. (a) *Official file.* The official file of proceedings pursuant
32 to this code shall consist of the complaint, process, service of process,
33 orders, writs and journal entries reflecting hearings held, judgments and
34 decrees entered by the court. The official file shall be kept separate from
35 other records of the court.

36 (b) The official file shall be open for public inspection, unless the
37 judge determines that opening the official file for public inspection is not
38 in the best interests of a juvenile who is less than 14 years of age.
39 Information identifying victims and alleged victims of sex offenses, as
40 defined in article 35 of chapter 21 of the Kansas Statutes Annotated, prior
41 to their repeal, or article 55 of chapter 21 of the Kansas Statutes
42 Annotated, or K.S.A. 2019 Supp. 21-6419 through 21-6422, and
43 amendments thereto, or human trafficking or aggravated human

1 trafficking, as defined in K.S.A. 21-3446 or 21-3447, prior to their repeal,
 2 or K.S.A. 2019 Supp. 21-5426, and amendments thereto, shall not be
 3 disclosed or open to public inspection under any circumstances. Nothing in
 4 this section shall prohibit the victim or alleged victim of any sex offense
 5 from voluntarily disclosing such victim's identity. An official file closed
 6 pursuant to this section and information identifying the victim or alleged
 7 victim of any sex offense shall be disclosed only to the following:

8 (1) A judge of the district court and members of the staff of the court
 9 designated by the judge;

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

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

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

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

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

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

24 (8) juvenile intake and assessment workers;

25 (9) the commissioner;

26 (10) *the office of the child advocate for children's protection and*
 27 *services, pursuant to sections 1 through 8, and amendments thereto;*

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

30 ~~(12)~~ (12) the commission on judicial performance in the discharge of
 31 the commission's duties pursuant to article 32 of chapter 20 of the Kansas
 32 Statutes Annotated, and amendments thereto.

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

36 (A) Attorneys for the parties;;

37 (B) juvenile intake and assessment workers;;

38 (C) court appointed special advocates;;

39 (D) juvenile community corrections officers;;

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

41 (F) *the office of the child advocate for children's protection and*
 42 *services, pursuant to sections 1 through 8, and amendments thereto; or*
 43 ~~upon~~

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

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

5 (d) *Preservation of records.* The Kansas state historical society shall
6 be allowed to take possession for preservation in the state archives of any
7 court records related to proceedings under the Kansas juvenile justice code
8 or the revised Kansas juvenile justice code whenever such records
9 otherwise would be destroyed. The Kansas state historical society shall
10 make available for public inspection any unexpunged docket entry or
11 official file in its custody concerning any juvenile 14 or more years of age
12 at the time an offense is alleged to have been committed by the juvenile.
13 No other such records in the custody of the Kansas state historical society
14 shall be disclosed directly or indirectly to anyone for 70 years after
15 creation of the records, except as provided in subsections (b) and (c). A
16 judge of the district court may allow inspection for research purposes of
17 any court records in the custody of the Kansas state historical society
18 related to proceedings under the Kansas juvenile justice code or the
19 revised Kansas juvenile justice code.

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

24 Sec. 13. K.S.A. 2019 Supp. 38-2310 is hereby amended to read as
25 follows: 38-2310. (a) All records of law enforcement officers and agencies
26 and municipal courts concerning an offense committed or alleged to have
27 been committed by a juvenile under 14 years of age shall be kept readily
28 distinguishable from criminal and other records and shall not be disclosed
29 to anyone except:

30 (1) The judge of the district court and members of the staff of the
31 court designated by the judge;

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

33 (3) the Kansas department for children and families;

34 (4) the juvenile's court appointed special advocate, any officer of a
35 public or private agency or institution or any individual having custody of
36 a juvenile under court order or providing educational, medical or mental
37 health services to a juvenile;

38 (5) any educational institution, to the extent necessary to enable the
39 educational institution to provide the safest possible environment for its
40 pupils and employees;

41 (6) any educator, to the extent necessary to enable the educator to
42 protect the personal safety of the educator and the educator's pupils;

43 (7) law enforcement officers or county or district attorneys, or their

1 staff, when necessary for the discharge of their official duties;

2 (8) the central repository, as defined by K.S.A. 22-4701, and
 3 amendments thereto, for use only as a part of the juvenile offender
 4 information system established under K.S.A. 2019 Supp. 38-2326, and
 5 amendments thereto;

6 (9) juvenile intake and assessment workers;

7 (10) the department of corrections;

8 (11) juvenile community corrections officers;

9 (12) the interstate compact for juveniles compact administrator for
 10 the purpose of carrying out the responsibilities related to the interstate
 11 compact for juveniles;

12 (13) *the office of the child advocate for children's protection and*
 13 *services, pursuant to sections 1 through 8, and amendments thereto;*

14 (14) any other person when authorized by a court order, subject to
 15 any conditions imposed by the order; and

16 ~~(14)~~(15) as provided in subsection (c).

17 (b) The provisions of this section shall not apply to records
 18 concerning:

19 (1) A violation, by a person 14 or more years of age, of any provision
 20 of chapter 8 of the Kansas Statutes Annotated, and amendments thereto, or
 21 of any city ordinance or county resolution ~~which~~ that relates to the
 22 regulation of traffic on the roads, highways or streets or the operation of
 23 self-propelled or nonself-propelled vehicles of any kind;

24 (2) a violation, by a person 16 or more years of age, of any provision
 25 of chapter 32 of the Kansas Statutes Annotated, and amendments thereto;
 26 or

27 (3) an offense for which the juvenile is prosecuted as an adult.

28 (c) All records of law enforcement officers and agencies and
 29 municipal courts concerning an offense committed or alleged to have been
 30 committed by a juvenile 14 or more years of age shall be subject to the
 31 same disclosure restrictions as the records of adults. Information
 32 identifying victims and alleged victims of sex offenses, as defined in
 33 article 35 of chapter 21 of the Kansas Statutes Annotated, prior to their
 34 repeal, or article 55 of chapter 21 of the Kansas Statutes Annotated, and
 35 amendments thereto, K.S.A. 2019 Supp. 21-6419 through 21-6422, and
 36 amendments thereto, or human trafficking or aggravated human
 37 trafficking, as defined in K.S.A. 21-3446 or 21-3447, prior to their repeal,
 38 or K.S.A. 2019 Supp. 21-5426, and amendments thereto, shall not be
 39 disclosed or open to public inspection under any circumstances. Nothing in
 40 this section shall prohibit the victim or any alleged victim of any sex
 41 offense from voluntarily disclosing such victim's identity.

42 (d) Relevant information, reports and records, shall be made available
 43 to the department of corrections upon request and a showing that the

1 former juvenile has been convicted of a crime and placed in the custody of
2 the secretary of corrections.

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

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

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

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

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

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

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

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

24 (F) an agency charged with the responsibility of preventing or
25 treating physical, mental or emotional abuse or neglect or sexual abuse of
26 children, if the agency requesting the information has standards of
27 confidentiality as strict or stricter than the requirements of the Kansas code
28 for care of children or the revised Kansas juvenile justice code, whichever
29 is applicable;

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

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

34 (I) any individual, or public or private agency authorized by a
35 properly constituted authority to diagnose, care for, treat or supervise a
36 juvenile who is the subject of a report or record of child abuse or neglect,
37 specifically including the following: Physicians, psychiatrists, nurses,
38 nurse practitioners, psychologists, licensed social workers, child
39 development specialists, physician assistants, community mental health
40 workers, addiction counselors and licensed or registered child care
41 providers;

42 (J) a citizen review board pursuant to K.S.A. 2019 Supp. 38-2207,
43 and amendments thereto;

1 (K) an educational institution to the extent necessary to enable such
2 institution to provide the safest possible environment for pupils and
3 employees of the institution;

4 (L) any educator to the extent necessary for the protection of the
5 educator and pupils;

6 (M) any juvenile intake and assessment worker of another certified
7 juvenile intake and assessment program; ~~and~~

8 (N) the interstate compact for juveniles compact administrator for the
9 purpose of carrying out the responsibilities related to the interstate
10 compact for juveniles; *and*

11 *(O) the office of the child advocate for children's protection and*
12 *services, pursuant to sections 1 through 8, and amendments thereto.*

13 Sec. 14. K.S.A. 2019 Supp. 38-2211, 38-2212, 38-2213, 38-2309 and
14 38-2310 are hereby repealed.

15 Sec. 15. This act shall take effect and be in force from and after its
16 publication in the statute book.