

HOUSE BILL No. 2371

By Committee on Education

2-13

AN ACT relating to privileges and immunities; concerning ministers; amending K.S.A. 2002 Supp. 38-1522 and repealing the existing section.

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

New Section 1. As used in this act, unless the context clearly shows otherwise;

(a) "Abuse" means:

- (1) Causing or attempting to cause physical harm;
- (2) placing a child or person with developmental disabilities in fear of imminent physical harm;
- (3) causing a child or person with developmental disabilities to engage involuntarily in sexual relations by force, threats or duress or threatening to do so;
- (4) engaging in mental abuse, which includes threats, intimidation and acts designed to induce terror;
- (5) depriving a child or person with developmental disabilities of medical care, housing, food or other necessities of life;
- (6) restraining the liberty of a child or person with developmental disabilities; and
- (7) the definitions of abuse and neglect under the Kansas code of care of children, K.S.A. 38-1502, and amendments thereto.

(b) "Proper authorities" means the department of social and rehabilitation services, a court or law enforcement agency.

New Sec. 2. (a) A minister as defined in K.S.A. 60-429, and amendments thereto, shall report to the proper authorities when such minister foresees or has reasonable cause to suspect the crime of child abuse or abuse of a person with developmental disabilities whether the knowledge is obtained outside or inside the penitential communication, as defined in K.S.A. 60-429, and amendments thereto. The welfare and protection of a child or person with developmental disabilities within this state supersedes the penitential privilege of K.S.A. 60-429, and amendments thereto. If the knowledge or suspicion of child abuse or abuse of a person with developmental disabilities is learned from a penitent, as defined in K.S.A. 60-429, and amendments thereto, who has abused, is abusing or

1 intends to abuse a child or person with developmental disabilities, such
2 disclosure shall be no greater than necessary to report the child abuse or
3 abuse of a person with developmental disabilities while protecting any
4 other information discussed during the penitential communication. The
5 minister, official or staff member of a church, religious sect or religious
6 organization may make such report anonymously to the local department
7 of social and rehabilitation services or a law enforcement agency.

8 (b) Each church, religious sect or religious organization may desig-
9 nate an agent or agents required to report suspected child abuse or abuse
10 of a person with developmental disabilities in an official capacity for such
11 church, religious sect or religious organization to the proper authorities.
12 In the event a minister, official or staff member of a church, religious sect
13 or religious organization has reasonable cause to believe a child or a per-
14 son with developmental disabilities has been, is being or is about to be
15 subjected to abuse, such minister, official or staff member shall make the
16 official report to the designated agent of the church, religious sect or
17 religious organization. The designated agent shall then become respon-
18 sible for making the report. If a church, religious sect or religious organ-
19 ization does not have a designated agent, the minister, official or staff
20 person within the church, religious sect or religious organization with
21 knowledge of abuse shall be responsible to make the report.

22 (c) Nothing in this section shall be construed to require that any min-
23 ister, official, staff person or designated agent of a church, religious sect
24 or religious organization testify in court hearings concerning the child
25 abuse or abuse of a person with developmental disabilities. There is no
26 privilege under this section for information which is required by law to
27 be reported to a public official, nor shall such minister, official, staff per-
28 son or designated agent be subject to a civil action for damages as a result
29 of reporting such information.

30 Sec. 3. K.S.A. 2002 Supp. 38-1522 is hereby amended to read as
31 follows: 38-1522. (a) When any of the following persons has reason to
32 suspect that a child has been injured as a result of physical, mental or
33 emotional abuse or neglect or sexual abuse, the person shall report the
34 matter promptly as provided in subsection (c) or (e): Persons licensed to
35 practice the healing arts or dentistry; persons licensed to practice optom-
36 etry; persons engaged in postgraduate training programs approved by the
37 state board of healing arts; licensed psychologists; licensed masters level
38 psychologists; licensed clinical psychotherapists; licensed professional or
39 practical nurses examining, attending or treating a child under the age of
40 18; teachers, school administrators or other employees of a school which
41 the child is attending; chief administrative officers of medical care facil-
42 ities; licensed marriage and family therapists; licensed clinical marriage
43 and family therapists; licensed professional counselors; licensed clinical

1 professional counselors; registered alcohol and drug abuse counselors;
2 persons licensed by the secretary of health and environment to provide
3 child care services or the employees of persons so licensed at the place
4 where the child care services are being provided to the child; licensed
5 social workers; firefighters; emergency medical services personnel; me-
6 diators appointed under K.S.A. 23-602 and amendments thereto; juvenile
7 intake and assessment workers; ~~and~~ law enforcement officers *and min-*
8 *isters as defined in K.S.A. 60-429, and amendments thereto.* The report
9 may be made orally and shall be followed by a written report if requested.
10 When the suspicion is the result of medical examination or treatment of
11 a child by a member of the staff of a medical care facility or similar
12 institution, that staff member shall immediately notify the superinten-
13 dent, manager or other person in charge of the institution who shall make
14 a written report forthwith. Every written report shall contain, if known,
15 the names and addresses of the child and the child's parents or other
16 persons responsible for the child's care, the child's age, the nature and
17 extent of the child's injury (including any evidence of previous injuries)
18 and any other information that the maker of the report believes might be
19 helpful in establishing the cause of the injuries and the identity of the
20 persons responsible for the injuries.

21 (b) Any other person who has reason to suspect that a child has been
22 injured as a result of physical, mental or emotional abuse or neglect or
23 sexual abuse may report the matter as provided in subsection (c) or (e).

24 (c) Except as provided by subsection (e), reports made pursuant to
25 this section shall be made to the state department of social and rehabil-
26 itation services. When the department is not open for business, the re-
27 ports shall be made to the appropriate law enforcement agency. On the
28 next day that the state department of social and rehabilitation services is
29 open for business, the law enforcement agency shall report to the de-
30 partment any report received and any investigation initiated pursuant to
31 subsection (a) of K.S.A. 38-1524 and amendments thereto. The reports
32 may be made orally or, on request of the department, in writing.

33 (d) Any person who is required by this section to report an injury to
34 a child and who knows of the death of a child shall notify immediately
35 the coroner as provided by K.S.A. 22a-242, and amendments thereto.

36 (e) Reports of child abuse or neglect occurring in an institution op-
37 erated by the secretary of social and rehabilitation services or the com-
38 missioner of juvenile justice shall be made to the attorney general. All
39 other reports of child abuse or neglect by persons employed by or of
40 children of persons employed by the state department of social and re-
41 habilitation services or the juvenile justice authority shall be made to the
42 appropriate law enforcement agency.

43 (f) Willful and knowing failure to make a report required by this sec-

1 tion is a class B misdemeanor.

2 (g) Preventing or interfering with, with the intent to prevent, the
3 making of a report required by this section is a class B misdemeanor.

4 Sec. 4. K.S.A. 2002 Supp. 38-1522 is hereby repealed.

5 Sec. 5. This act shall take effect and be in force from and after its
6 publication in the statute book.

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