

As Amended by House Committee

Session of 2015

HOUSE BILL No. 2244

By Committee on Health and Human Services

2-5

1 AN ACT concerning children and families; enacting the ~~safe~~ **supporting**
2 families act; **relating to reporting of child abuse or neglect;**
3 **amending K.S.A. 2014 Supp. 38-2223 and repealing the existing**
4 **section.**

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

7 **New Section 1.** Sections 1 through 6 shall be known and may be cited
8 as the ~~safe~~ **supporting** families act.

9 **New Sec. 2.** As used in the ~~safe~~ **supporting** families act:

10 (a) "Attorney in fact" shall have the same meaning as defined in
11 K.S.A. 58-651, and amendments thereto.

12 (b) "Serving parent" means a parent who is a member of the reserves
13 of the army, navy, air force, marine corps or coast guard of the United
14 States or the commissioned corps of the national oceanic and atmospheric
15 administration or the public health service of the United States department
16 of health and human services detailed by proper authority for duty with the
17 army or navy of the United States, or who is required to enter or serve in
18 the active military service of the United States under a call or order of the
19 president of the United States or to serve on state active duty.

20 **New Sec. 3.** (a) A parent or legal custodian of a child may by a
21 properly executed power of attorney provided in section 4, and
22 amendments thereto, delegate to another person known as the attorney in
23 fact, for a period not to exceed one year, except as provided in subsection
24 (f), any of the powers regarding the care and custody of the child, except
25 the power to consent to marriage or adoption of the child, the performance
26 or inducement of an abortion on or for the child, or the termination of
27 parental rights to the child. A delegation of powers under this section shall
28 not deprive the parent or legal custodian of any parental or legal authority
29 regarding the care and custody of the child.

30 (b) The parent or legal custodian of the child shall have the authority
31 to revoke or withdraw the power of attorney authorized by subsection (a)
32 at any time. Except as provided in subsection (f), if the delegation of
33 authority lasts longer than one year, the parent or legal custodian of the
34 child shall execute a new power of attorney for each additional year that
35 the delegation exists. If a parent withdraws or revokes the power of
36 attorney the child shall be returned to the custody of the parents as soon as

1 reasonably possible.

2 (c) Unless the authority is revoked or withdrawn by the parent the
 3 attorney in fact shall exercise parental or legal authority on a continuous
 4 basis without compensation for the duration of the power of attorney
 5 authorized by subsection (a) and shall not be subject to any laws or rules
 6 or regulations dealing with the licensing or regulation of foster care
 7 homes, **except that the department for children and families shall**
 8 **conduct a background check on such person similar to background**
 9 **checks conducted on prospective foster parents. Prior to execution of**
 10 **any power of attorney pursuant to this section, the department shall**
 11 **verify in writing that the department has conducted the background**
 12 **check required by this subsection and, based on such background**
 13 **check, found no reason to object to the execution of the power of**
 14 **attorney. The background check required by this subsection shall not**
 15 **be required for an attorney-in-fact who is a grandparent, aunt, uncle**
 16 **or adult sibling of the child.**

17 (d) Except as otherwise provided by law, the execution of a power of
 18 attorney by a parent or legal custodian, as authorized in subsection (a),
 19 shall not constitute abandonment, abuse or neglect as defined in K.S.A.
 20 38-2202, and amendments thereto, unless the parent or legal custodian
 21 fails to take custody of the child or execute a new power of attorney after
 22 the one-year time limit has elapsed.

23 (e) Under a delegation of powers as authorized by subsection (a), the
 24 child or children subject to the power of attorney shall not be considered as
 25 placed in foster care and the parties shall not be subject to any of the
 26 requirements or licensing laws, rules or regulations for foster care, **except**
 27 **as otherwise provided in this section**, or other regulations relating to
 28 community care for children.

29 (f) A serving parent may delegate the power designated in subsection
 30 (a) for a period longer than one year if on active duty service. The term of
 31 delegation, however, may not exceed the term of active duty service plus
 32 30 days.

33 ~~Sec. 4. (a) The following statutory form of power of attorney to~~
 34 ~~delegate parental or legal authority as authorized by section 3, and~~
 35 ~~amendments thereto, is legally sufficient:~~

36 ~~Statutory Form for Power of Attorney to Delegate Parental or Legal~~
 37 ~~Custodian Powers~~

38 1. "I certify that I am the parent or legal custodian of:

39 _____
 40 _____
 41 (Full name of minor child) _____ (Date of birth)
 42 _____
 43 _____

1 (Full name of minor child) _____ (Date of birth)

2

3

4 (Full name of minor child) _____ (Date of birth)"

5

6 —2. "I designate _____ (Full name of Attorney in fact),

7

8

9 (Street address, city, state and zip code of Attorney in fact)

10

11

12 (Home phone of Attorney in fact) (Work phone of Attorney in fact)

13

as the attorney in fact of each minor child named above."

14

15 3. "I delegate to the attorney in fact all of my power and authority
16 regarding the care, custody and property of each minor child named above,
17 including, but not limited to, the right to enroll the child in school, inspect
18 and obtain copies of education records and other records concerning the
19 child, the right to attend school activities and other functions concerning
20 the child, and the right to give or withhold any consent or waiver with
21 respect to school activities, medical and dental treatment, and any other
22 activity, function or treatment that may concern the child. This delegation
23 shall not include the power or authority to consent to marriage or adoption
24 of the child, the performance or inducement of an abortion on or for the
25 child, or the termination of parental rights to the child." or

25

26 4. I delegate to the attorney in fact the following specific powers and
27 responsibilities (write in):

27

28 (In the event paragraph 4 is completed paragraph 3 does not apply):

29

30 This delegation shall not include the power or authority to consent to
31 marriage or adoption of the child, the performance or inducement of an
32 abortion on or for the child, or the termination of parental rights to the
33 child."

33

34 5. "This power of attorney is effective for a period not to exceed one
35 year, beginning _____, 20__, and ending _____, 20__.
I reserve the right to revoke this authority at any time."

36

37 6. I am a serving parent as defined in the safe families act. My active
38 duty is estimated to be completed on _____. I
39 acknowledge that in no event may this delegation of power last more than
40 one year or the term on my active duty plus 30 days, whichever is longer.

40

By: _____

41

(Parent/Legal Custodian signature)"

42

7. "I hereby accept my designation as attorney in fact for

43

1 (Minor child(ren)) as specified in this power of attorney.
 2 _____
 3 (Attorney in fact signature)
 4 State of _____
 5 County of _____
 6 ACKNOWLEDGMENT
 7 Before me, the undersigned, a Notary Public, in and for
 8 _____ County and this State on this ____ day of
 9 _____, 20____, personally appeared _____
 10 (Name of Parent/Legal Custodian) and _____
 11 (Name of Attorney in fact), to me known to be the identical persons who
 12 executed this instrument and acknowledged to me that each executed the
 13 same of such person's free and voluntary act and deed for the uses and
 14 purposes set forth in the instrument.
 15 Witness my hand and official seal the day and year above written.
 16 _____
 17 _____
 18 (Signature of notarial officer)
 19 (Seal, if any)
 20 _____
 21 _____
 22 (Title and Rank)
 23 My commission expires: _____"

24 **New Sec. 4. The Kansas judicial council shall create a form of**
 25 **power of attorney to delegate parental or legal authority consistent**
 26 **with the requirements of section 3, and amendments thereto.**

27 (b) The power of attorney is legally sufficient under the ~~safe-~~
 28 **supporting** families act, if the wording of the form complies substantially
 29 with **the power of attorney form created by the Kansas judicial council**
 30 **pursuant to** subsection (a), the form is properly completed and the
 31 signatures of the parties are acknowledged.

32 **New Sec. 5.** During any child protective investigation by the Kansas
 33 department for children and families that does not result in an out of home
 34 placement resulting from abuse of a child, ~~a child protective investigator~~
 35 **the Kansas department for children and families** shall provide
 36 information to the parent or custodians who are under financial distress,
 37 unemployed, homeless or experiencing other family crises about
 38 community service programs that provide respite care, voluntary
 39 guardianship, other support services for families in crisis, including
 40 churches and other organizations that work with ~~safe~~ **supporting** families
 41 for children, and the ~~safe~~ **supporting** families act.

42 **New Sec. 6.** Any attorney in fact delegated authority under the ~~safe-~~
 43 **supporting** families act by a parent or legal custodian is not subject to the

1 requirements of any other child care facility licensing statutes, rules or
2 regulations or foster care licensing laws or rules or regulations, **except as**
3 **provided in section 3, and amendments thereto**, and will not constitute
4 an out-of-home child placement under the child in need of care code,
5 K.S.A. 38-2201 et seq., and amendments thereto.

6 **New Sec. 7.** The Kansas department for children and families is
7 hereby authorized to work with families who are in financial distress,
8 unemployed, homeless or experiencing other family crises by detailing
9 community resources available to such families in the community,
10 including, but not limited to, respite care, voluntary guardianship under the
11 **safe supporting** families act and information regarding churches and other
12 organizations that work as host families for safe families for children in the
13 state.

14 **Sec. 8. K.S.A. 2014 Supp. 38-2223 is hereby amended to read as**
15 **follows: 38-2223. (a) *Persons making reports.* (1) When any of the**
16 **following persons has reason to suspect that a child has been harmed**
17 **as a result of physical, mental or emotional abuse or neglect or sexual**
18 **abuse, the person shall report the matter promptly as provided in**
19 **subsections (b) and (c);**

20 **(A) The following persons providing medical care or treatment:**
21 **Persons licensed to practice the healing arts, dentistry and optometry,**
22 **persons engaged in postgraduate training programs approved by the**
23 **state board of healing arts, licensed professional or practical nurses**
24 **and chief administrative officers of medical care facilities;**

25 **(B) the following persons licensed by the state to provide mental**
26 **health services: Licensed psychologists, licensed masters level**
27 **psychologists, licensed clinical psychotherapists, licensed social**
28 **workers, licensed marriage and family therapists, licensed clinical**
29 **marriage and family therapists, licensed professional counselors,**
30 **licensed clinical professional counselors and registered alcohol and**
31 **drug abuse counselors;**

32 **(C) teachers, school administrators or other employees of an**
33 **educational institution which the child is attending and persons**
34 **licensed by the secretary of health and environment to provide child**
35 **care services or the employees of persons so licensed at the place**
36 **where the child care services are being provided to the child;**

37 **(D) firefighters, emergency medical services personnel, law**
38 **enforcement officers, juvenile intake and assessment workers, court**
39 **services officers, community corrections officers, case managers**
40 **appointed under K.S.A. 2014 Supp. 23-3508, and amendments thereto,**
41 **and mediators appointed under K.S.A. 2014 Supp. 23-3502, and**
42 **amendments thereto; and**

43 **(E) any person employed by or who works as a volunteer for any**

1 organization, whether for profit or not-for-profit, that provides social
2 services to pregnant teenagers, including, but not limited to,
3 counseling, adoption services and pregnancy education and
4 maintenance; and

5 *(F) any attorney-in-fact delegated power regarding the custody and*
6 *care of a child pursuant to sections 1 through 7, and amendments thereto.*

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

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

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

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

28 **(1) When the Kansas department for children and families is not**
29 **open for business, reports shall be made to the appropriate law**
30 **enforcement agency. On the next day that the department is open for**
31 **business, the law enforcement agency shall report to the department**
32 **any report received and any investigation initiated pursuant to K.S.A.**
33 **2014 Supp. 38-2226, and amendments thereto. The reports may be**
34 **made orally or, on request of the secretary, in writing.**

35 **(2) Reports of child abuse or neglect occurring in an institution**
36 **operated by the Kansas department for aging and disability services**
37 **or the commissioner of juvenile justice shall be made to the attorney**
38 **general. All other reports of child abuse or neglect by persons**
39 **employed by or of children of persons employed by the Kansas**
40 **department for aging and disability services and the Kansas**
41 **department for children and families shall be made to the appropriate**
42 **law enforcement agency.**

43 **(d) *Death of child.* Any person who is required by this section to**

1 report a suspicion that a child is in need of care and who knows of
2 information relating to the death of a child shall immediately notify
3 the coroner as provided by K.S.A. 22a-242, and amendments thereto.

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

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

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

12 (f) *Immunity from liability.* Anyone who, without malice,
13 participates in the making of a report to the secretary or a law
14 enforcement agency relating to a suspicion a child may be a child in
15 need of care or who participates in any activity or investigation
16 relating to the report or who participates in any judicial proceeding
17 resulting from the report shall have immunity from any civil liability
18 that might otherwise be incurred or imposed.

19 **Sec. 9. K.S.A. 2014 Supp. 38-2223 is hereby repealed.**

20 ~~Sec. 8- 10.~~ This act shall take effect and be in force from and after its
21 publication in the statute book.