

**38-2209. Confidentiality of child in need of care records; penalties; immunities.** (a) *Confidentiality requirements.* In order to protect the privacy of children who are the subject of a child in need of care record or report, the records identified in this section shall be confidential and shall not be disclosed except as provided in K.S.A. 2016 Supp. 38-2210 through 38-2213, and amendments thereto. Confidential records that are disclosed pursuant to K.S.A. 2016 Supp. 38-2210 through 38-2213, and amendments thereto, shall not be further disclosed except to persons or entities authorized to receive them as provided in those sections, or by being presented as admissible evidence.

(1) Court records. Court records include both the official file and the social file.

(A) Official file. The official file of proceedings pursuant to this code shall consist of the pleadings, process, service of process, orders, writs and journal entries reflecting hearings held and judgments and decrees entered by the court. The official file shall be kept separate from other records of the court.

(B) Social file. The social file of proceedings pursuant to this code shall consist of reports and information received by the court, other than the official file. The social file shall be kept separate from other records of the court.

(2) Agency records. Agency records shall consist of all records and reports in the possession or control of the secretary or any agent of the secretary or of a juvenile intake and assessment agency concerning children alleged or adjudicated to be in need of care.

(3) Law enforcement records. Law enforcement records shall consist of all records and reports in the possession of a law enforcement agency concerning children alleged or adjudicated to be in need of care and shall, to the extent practical, be kept separate from other records held by a law enforcement agency.

(b) *Penalties for improper disclosure of confidential records.* No individual, association, partnership, corporation or other entity shall willfully or knowingly disclose, permit or encourage disclosure of the contents of records or reports in violation of the confidentiality requirements of this section. The court in a child in need of care proceeding may impose a civil penalty of up to \$1,000 on any person or entity that violates this section. Violation of this section is a class A nonperson misdemeanor.

(c) *Immunity.* The following immunities shall apply to the disclosure of confidential information:

(1) Anyone who participates in providing or receiving information without malice under the provisions of K.S.A. 2016 Supp. 38-2210 through 38-2213, and amendments thereto, shall have immunity from any civil liability that might otherwise be incurred or imposed. Any such participant shall have the same immunity with respect to participation in any judicial proceedings resulting from providing or receiving information.

(2) The sharing of any information pursuant to this code by any person licensed or registered by the behavioral science regulatory board shall not be subject to review under any rules or regulations adopted by the behavioral sciences regulatory board.

(d) *Risk of harm to child or others.* Access to or disclosure of information pursuant to K.S.A. 2016 Supp. 38-2210 through 38-2213, and amendments thereto, is not required if the person or entity in possession of a record or report has reason to believe the person requesting such information may harm a child or other person as a result of such access or disclosure. The court may enter an order compelling or prohibiting access to, or disclosure of information.

**History:** L. 2004, ch. 178, § 1; July 1.