

HOUSE BILL No. 2300

By Committee on Federal and State Affairs

2-6

1 AN ACT concerning children and minors; relating to reporting of certain
2 abuse and neglect; requiring a duly ordained minister of religion to
3 report certain abuse and neglect except when reporting would violate
4 the penitential communication privilege; amending K.S.A. 2022 Supp.
5 38-2223 and repealing the existing section.

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

8 Section 1. K.S.A. 2022 Supp. 38-2223 is hereby amended to read as
9 follows: 38-2223. (a) *Persons making reports.* (1) When any of the
10 following persons has reason to suspect that a child has been harmed as a
11 result of physical, mental or emotional abuse or neglect or sexual abuse,
12 the person shall report the matter promptly as provided in subsections (b)
13 and (c);

14 (A) The following persons providing medical care or treatment:
15 Persons licensed to practice the healing arts, dentistry and optometry,
16 persons engaged in postgraduate training programs approved by the state
17 board of healing arts, licensed professional or practical nurses and chief
18 administrative officers of medical care facilities;

19 (B) the following persons licensed by the state to provide mental
20 health services: Licensed psychologists, licensed masters level
21 psychologists, licensed clinical psychotherapists, licensed social workers,
22 licensed marriage and family therapists, licensed clinical marriage and
23 family therapists, licensed behavioral analysts, licensed assistant
24 behavioral analysts, licensed professional counselors, licensed clinical
25 professional counselors and registered alcohol and drug abuse counselors;

26 (C) teachers, school administrators and other employees of an
27 educational institution that the child is attending and any member of the
28 board of directors of the Kansas state high school activities association
29 referenced in K.S.A. 72-7114, and amendments thereto, and any person
30 who is employed by or is an officer of such association;

31 (D) persons licensed by the secretary of health and environment to
32 provide child care services or the employees of persons so licensed at the
33 place where the child care services are being provided to the child;

34 (E) firefighters, emergency medical services personnel, law
35 enforcement officers, juvenile intake and assessment workers, court
36 services officers, community corrections officers, case managers appointed

1 under K.S.A. 2022 Supp. 23-3508, and amendments thereto, and mediators
2 appointed under K.S.A. 2022 Supp. 23-3502, and amendments thereto;
3 ~~and~~

4 (F) any person employed by or who works as a volunteer for any
5 organization, whether for profit or not-for-profit, that provides social
6 services to pregnant teenagers, including, but not limited to, counseling,
7 adoption services and pregnancy education and maintenance; *and*

8 (G) *any duly ordained minister of religion, as defined in K.S.A. 60-*
9 *429, and amendments thereto, except that a duly ordained minister of*
10 *religion who suspects abuse or neglect based on a penitential*
11 *communication is not required to violate penitential communication*
12 *privilege as provided in K.S.A. 60-429, and amendments thereto.*

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

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

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

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

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

39 (2) Reports of child abuse or neglect occurring in an institution
40 operated by the Kansas department of corrections shall be made to the
41 attorney general or the secretary of corrections. Reports of child abuse or
42 neglect occurring in an institution operated by the Kansas department for
43 aging and disability services shall be made to the appropriate law

1 enforcement agency. All other reports of child abuse or neglect by persons
2 employed by the Kansas department for aging and disability services or
3 the Kansas department for children and families, or of children of persons
4 employed by either department, shall be made to the appropriate law
5 enforcement agency.

6 (d) *Death of child.* Any person who is required by this section to
7 report a suspicion that a child is in need of care and who knows of
8 information relating to the death of a child shall immediately notify the
9 coroner as provided by K.S.A. 22a-242, and amendments thereto.

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

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

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

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

25 Sec. 2. K.S.A. 2022 Supp. 38-2223 is hereby repealed.

26 Sec. 3. This act shall take effect and be in force from and after its
27 publication in the statute book.