

HOUSE BILL No. 2751

By Committee on Federal and State Affairs

2-15

1 AN ACT establishing the office of the child advocate for children's
2 protection and services within the Kansas department of administration;
3 prescribing certain powers, duties and functions; amending K.S.A.
4 2017 Supp. 38-2212, 38-2309 and 38-2310 and repealing the existing
5 sections.

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

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

10 (a) "The office" means the office of the child advocate for children's
11 protection and services within the Kansas department of administration
12 and 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 or the Kansas department of
15 corrections.

16 New Sec. 2. (a) There is hereby established within the Kansas
17 department of administration the office of the child advocate for children's
18 protection and services for the purpose of assuring that children receive
19 adequate protection and care through services offered by the Kansas
20 department for children and families and the Kansas department of
21 corrections. The child advocate shall report directly to the secretary of
22 administration.

23 (b) The office shall be administered by the child advocate, who shall
24 be appointed jointly by the governor and the chief justice of the Kansas
25 supreme court with the advice and consent of the senate. The child
26 advocate shall hold office for a term of six years and shall continue to hold
27 office until a successor has been duly appointed. The child advocate shall
28 act independently of the Kansas department for children and families and
29 the Kansas department of corrections in the performance of the child
30 advocate's duties. The Kansas department of administration shall provide
31 administrative support and staff to the office as deemed necessary.

32 (c) For the fiscal year ending June 30, 2019, and for each fiscal year
33 thereafter, the secretary of administration shall include the budget estimate
34 of the office, as prepared and approved by the child advocate, along with
35 the budget estimate prepared and submitted to the division of the budget
36 for the department of administration under K.S.A. 75-3717, and

1 amendments thereto. The budget estimate of the office for each such fiscal
2 year shall be prepared at the direction and under the supervision of the
3 child advocate. Expenditures from appropriations to the department of
4 administration for the office, made pursuant to budget estimates for the
5 office, shall be made on vouchers approved by the child advocate or the
6 child advocate's designee. All vouchers for expenditures and all payrolls of
7 the office shall be approved by the child advocate or the child advocate's
8 designee.

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

11 (1) The names and physical location of all children in protective
12 services, treatment or other programs under the jurisdiction of the Kansas
13 department for children and families or the Kansas department of
14 corrections;

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

16 (3) all current records required to be maintained pursuant to articles
17 22 and 23 of chapter 38 of the Kansas Statutes Annotated, and
18 amendments thereto.

19 (b) The office shall have the authority:

20 (1) To communicate privately by any means possible with any child
21 under protective services and anyone working with the child, including the
22 family, relatives, courts, employees of the Kansas department for children
23 and families or the Kansas department of corrections and other persons or
24 entities providing treatment and services;

25 (2) to have access, including the right to inspect, copy and subpoena
26 relevant child records held by law enforcement agencies, the clerk of any
27 Kansas court, juvenile officers, public or private institutions and other
28 agencies or persons with whom a particular child has been either
29 voluntarily or otherwise placed for care or has received treatment within
30 this state or in another state;

31 (3) to work in conjunction with juvenile officers and guardians ad
32 litem;

33 (4) to file any findings or reports of the child advocate regarding the
34 parent or child with the appropriate court and issue recommendations
35 regarding the disposition of an investigation to the court and to the
36 investigating agency;

37 (5) to file amicus curiae briefs on behalf of the interests of the parent
38 or child, or to file such pleadings necessary to intervene on behalf of the
39 child at the appropriate judicial level using the resources of the office of
40 the attorney general;

41 (6) to initiate meetings with personnel from the Kansas department
42 for children and families or the Kansas department of corrections;

43 (7) to take whatever steps are appropriate to see that individuals are

1 made aware of the services of the office, its purpose and how it can be
2 contacted;

3 (8) to apply for and accept grants, gifts and bequests of funds from
4 other state, interstate or federal agencies, independent authorities, private
5 firms, individuals and foundations to carry out the child advocate's duties
6 and responsibilities. The funds shall be deposited in a dedicated account
7 established within the office to permit moneys to be expended in
8 accordance with the provisions of the grant or bequest;

9 (9) subject to appropriations, to establish local panels as needed on a
10 regional or county basis to adequately and efficiently carry out the
11 functions and duties of the office and address complaints in a timely
12 manner; and

13 (10) to mediate disputes between alleged victims of sexual
14 misconduct and school districts or charter schools as provided in section 4,
15 and amendments thereto.

16 (c) (1) For any information obtained from a state agency or entity
17 under sections 1 through 9, and amendments thereto, the office shall be
18 subject to the same disclosure restrictions and confidentiality requirements
19 that apply to the state agency or entity providing such information to the
20 office. For information obtained directly by the office under sections 1
21 through 9, and amendments thereto, the office shall be subject to the same
22 disclosure restrictions and confidentiality requirements that apply to the
23 Kansas department for children and families regarding information
24 obtained during a child abuse and neglect investigation resulting in an
25 unsubstantiated report.

26 (2) The provisions of this subsection providing for confidentiality of
27 records shall expire on July 1, 2023, unless the legislature reenacts such
28 provisions. The legislature shall review this subsection pursuant to K.S.A.
29 45-229, and amendments thereto, prior to July 1, 2023.

30 New Sec. 4. (a) The office of the child advocate for children's
31 protection and services shall be authorized to coordinate mediation efforts
32 between school districts or charter schools and students when requested by
33 both parties when allegations of child abuse arise in a school setting. The
34 office shall maintain a list of individuals who are qualified mediators. The
35 child advocate shall be available as one of the mediators on the list from
36 which parents can choose.

37 (b) Mediation procedures shall meet the following requirements:

38 (1) The mediation process shall not be used to deny or delay any
39 other complaint process available to the parties; and

40 (2) the mediation process shall be conducted by a qualified and
41 impartial mediator trained in effective mediation techniques who is not
42 affiliated with schools or school professional associations, who is not a
43 mandated reporter of child abuse under state law or rules and regulations

1 and who is available as a public service.

2 (c) No student, parent of a student, school employee, charter school
3 or school district shall be required to participate in mediation under this
4 section. If the school district, charter school, student or student's parent
5 does not wish to enter into mediation, then mediation shall not occur.

6 (d) Each session in the mediation process shall be scheduled in a
7 timely manner and be held in a location that is convenient to the parties in
8 dispute.

9 (e) (1) Discussions that occur during the mediation process shall be
10 confidential and may not be used as evidence in any subsequent
11 administrative proceeding, administrative hearing, nor in any civil or
12 criminal proceeding of any state or federal court.

13 (2) The provisions of this subsection providing for confidentiality of
14 records shall expire on July 1, 2023, unless the legislature reenacts such
15 provisions. The legislature shall review this subsection pursuant to K.S.A.
16 45-229, and amendments thereto, prior to July 1, 2023.

17 (f) If the parties resolve a dispute through the mediation process, the
18 parties shall execute a legally binding agreement that sets forth the
19 resolution and:

20 (1) States that all discussions that occurred during the mediation
21 process shall remain confidential and may not be used as evidence in any
22 subsequent administrative proceeding, administrative hearing or civil
23 proceeding of any federal or state court; and

24 (2) is signed by a representative of each party who has authority to
25 bind the party.

26 New Sec. 5. (a) The office of the child advocate for children's
27 protection and services shall establish and implement procedures for
28 receiving, processing, responding to and resolving complaints made by or
29 on behalf of children who are recipients of the services of the Kansas
30 department for children and families or the Kansas department of
31 corrections. Such procedures shall address complaints relating to the
32 actions, inactions or decisions of service providers, including contractors,
33 subcontractors and any juvenile court, that may adversely affect the health,
34 safety, welfare or rights of such recipient.

35 (b) The office shall establish and implement procedures for the
36 handling and, whenever possible, the resolution of complaints.

37 (c) The office shall have the authority to make the necessary inquiries
38 and review relevant information and records as the office deems necessary.

39 (d) The office may recommend to any state or local agency changes
40 in the rules and regulations adopted or proposed by such state or local
41 agency that adversely affect or may adversely affect the health, safety,
42 welfare or civil or human rights of any recipient. The office shall make
43 recommendations on changes to any current policies and procedures. The

1 office shall analyze and monitor the development and implementation of
2 federal, state and local laws, rules and regulations and policies with respect
3 to services in the state and shall recommend to the Kansas department for
4 children and families, the Kansas department of corrections, courts, the
5 Kansas legislature and the governor changes in such laws, rules and
6 regulations and policies deemed by the office to be appropriate.

7 (e) The office shall inform recipients, their guardians or their families
8 of their rights and entitlements under state and federal laws and rules and
9 regulations through the distribution of educational materials.

10 (f) The office shall annually submit to the governor, the Kansas
11 legislature and the Kansas supreme court a detailed report on the work of
12 the office. Such report shall include, but not be limited to, the number of
13 complaints received by the office, the disposition of such complaints, the
14 number of recipients involved in complaints, the state entities named in
15 complaints and whether such complaints were found to be substantiated
16 and any recommendations for improving the delivery of services to reduce
17 complaints or improving the function of the office.

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

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 in order to conduct such reviews.

28 (c) The office may make recommendations on changes to any entity's
29 policies and procedures based on the results of the review in order to
30 improve the delivery of services or the function of the entity. Upon
31 completing a review under this section, the office shall submit any findings
32 and recommendations to the Kansas department for children and families
33 and the Kansas department of corrections.

34 New Sec. 7. (a) The secretary for children and families and the
35 secretary of corrections shall enter into agreements with the office of the
36 child advocate for children's protection and services for the provision of
37 financial assistance to the office by the Kansas department for children and
38 families and the Kansas department of corrections from available state and
39 federal funds of the Kansas department for children and families and the
40 Kansas department of corrections. This financial assistance shall be to
41 assist the child advocate to provide child advocacy services in accordance
42 with sections 1 through 9, and amendments thereto.

43 (b) For the fiscal year ending June 30, 2019, and for each fiscal year

1 thereafter, the secretary for children and families and the secretary of
2 corrections shall include in the budget estimates prepared and submitted to
3 the division of the budget for the Kansas department for children and
4 families and the Kansas department of corrections under K.S.A. 75-3717,
5 and amendments thereto, in addition to other amounts included in such
6 budget estimates for the Kansas department for children and families and
7 the Kansas department of corrections, amounts to be provided to the office
8 during such fiscal year pursuant to this section. The amounts included in
9 each such budget estimate to be provided to the office shall include
10 amounts to be appropriated from federal moneys provided to the Kansas
11 department for children and families and the Kansas department of
12 corrections. Commencing in the fiscal year ending on June 30, 2020, in no
13 case shall the aggregate of the amounts included in any such budget
14 estimates of the Kansas department for children and families and the
15 Kansas department of corrections that are to be provided to the office be
16 less than the aggregate of all moneys provided during the fiscal year
17 ending June 30, 2019, by the Kansas department for children and families
18 and the Kansas department of corrections for the office from
19 appropriations to the Kansas department for children and families and the
20 Kansas department of corrections, including moneys received under the
21 federal programs for children. The aggregate amounts included in each
22 such budget estimates of the Kansas department for children and families
23 and the Kansas department of corrections that are to be provided to the
24 office shall be adjusted appropriately for increases attributable to inflation
25 and other applicable factors.

26 New Sec. 8. (a) Any files maintained by the office of the child
27 advocate for children's protection and services shall be disclosed only at
28 the discretion of the child advocate, except that the identity of any
29 complainant or recipient shall not be disclosed by the office unless:

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

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

33 (b) Any statement or communication made by the office relevant to a
34 complaint being addressed by the office and any complaint or information
35 made or provided in good faith by any person shall be absolutely
36 privileged and such person shall be immune from suit.

37 (c) Any representative of the office conducting or participating in any
38 examination of a complaint who knowingly and willfully discloses to any
39 person other than the office, or those persons authorized by the office to
40 receive it, the name of any witness examined or any information obtained
41 or given during such examination shall be guilty of a class A nonperson
42 misdemeanor. However, the office conducting or participating in any
43 examination of a complaint shall disclose the final result of the

1 examination with the consent of the recipient.

2 (d) (1) The office shall not be required to testify in any court with
3 respect to matters held to be confidential in this section, except as the court
4 may deem necessary to enforce the provisions of sections 1 through 9, and
5 amendments thereto, or when otherwise required by court order.

6 (2) The provisions of this subsection providing for confidentiality of
7 records shall expire on July 1, 2023, unless the legislature reenacts such
8 provisions. The legislature shall review this subsection pursuant to K.S.A.
9 45-229, and amendments thereto, prior to July 1, 2023.

10 New Sec. 9. (a) Any employee or an unpaid volunteer of the office of
11 the child advocate for children's protection and services shall be treated as
12 a representative of the office. No representative of the office shall be held
13 liable for good faith performance of such representative's official duties
14 under the provisions of sections 1 through 9, and amendments thereto, and
15 such representative shall be immune from suit for the good faith
16 performance of such duties. Every representative of the office shall be
17 considered an employee of the state of Kansas.

18 (b) No reprisal or retaliatory action shall be taken against any
19 recipient or employee of the Kansas department for children and families,
20 the Kansas department of corrections or courts for any communication
21 made or information given to the office. Any person who knowingly or
22 willfully violates the provisions of this subsection shall be guilty of a class
23 A nonperson misdemeanor.

24 Sec. 10. K.S.A. 2017 Supp. 38-2212 is hereby amended to read as
25 follows: 38-2212. (a) *Principle of appropriate access.* Information
26 contained in confidential agency records concerning a child alleged or
27 adjudicated to be in need of care may be disclosed as provided in this
28 section. Disclosure shall in all cases be guided by the principle of
29 providing access only to persons or entities with a need for information
30 that is directly related to achieving the purposes of this code.

31 (b) *Free exchange of information.* Pursuant to K.S.A. 2017 Supp. 38-
32 2210, and amendments thereto, the secretary and juvenile intake and
33 assessment agencies shall participate in the free exchange of information
34 concerning a child who is alleged or adjudicated to be in need of care.

35 (c) *Necessary access.* The following persons or entities shall have
36 access to information from agency records. Access shall be limited to
37 information reasonably necessary to carry out their lawful responsibilities,
38 to maintain their personal safety and the personal safety of individuals in
39 their care, or to educate, diagnose, treat, care for or protect a child alleged
40 to be in need of care. Information authorized to be disclosed pursuant to
41 this subsection shall not contain information which identifies a reporter of
42 a child who is alleged or adjudicated to be a child in need of care.

43 (1) A child named in the report or records, a guardian ad litem

1 appointed for the child and the child's attorney.

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

4 (3) A court-appointed special advocate for a child, a citizen review
5 board or other advocate which reports to the court.

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

11 (5) A person or entity licensed or registered by the secretary of health
12 and environment or approved by the secretary of social and rehabilitation
13 services to care for, treat or supervise a child in need of care.

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

16 (7) The state child death review board established under K.S.A. 22a-
17 243, and amendments thereto.

18 (8) An attorney for a private party who files a petition pursuant to
19 ~~subsection (b)~~ of K.S.A. 2017 Supp. 38-2233(b), and amendments thereto.

20 (9) A foster parent, prospective foster parent, permanent custodian,
21 prospective permanent custodian, adoptive parent or prospective adoptive
22 parent. In order to assist such persons in making an informed decision
23 regarding acceptance of a particular child, to help the family anticipate
24 problems which may occur during the child's placement, and to help the
25 family meet the needs of the child in a constructive manner, the secretary
26 shall seek and shall provide the following information to such person's as
27 the information becomes available to the secretary:

28 (A) Strengths, needs and general behavior of the child;

29 (B) circumstances which necessitated placement;

30 (C) information about the child's family and the child's relationship to
31 the family which may affect the placement;

32 (D) important life experiences and relationships which may affect the
33 child's feelings, behavior, attitudes or adjustment;

34 (E) medical history of the child, including third-party coverage which
35 may be available to the child; and

36 (F) education history, to include present grade placement, special
37 strengths and weaknesses.

38 (10) The state protection and advocacy agency as provided by
39 ~~subsection (a)(10)~~ of K.S.A. 65-5603(a)(10) or ~~subsection (a)(2)(A) and~~
40 ~~(B)~~ of K.S.A. 74-5515(a)(2)(A) and (B), and amendments thereto.

41 (11) Any educational institution to the extent necessary to enable the
42 educational institution to provide the safest possible environment for its
43 pupils and employees.

1 (12) Any educator to the extent necessary to enable the educator to
2 protect the personal safety of the educator and the educator's pupils.

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

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

9 (d) *Specified access.* The following persons or entities shall have
10 access to information contained in agency records as specified.
11 Information authorized to be disclosed pursuant to this subsection shall not
12 contain information which identifies a reporter of a child who is alleged or
13 adjudicated to be a child in need of care.

14 (1) Information from confidential agency records of the department
15 of social and rehabilitation services, a law enforcement agency or any
16 juvenile intake and assessment worker of a child alleged or adjudicated to
17 be in need of care shall be available to members of the standing house or
18 senate committee on judiciary, house committee on corrections and
19 juvenile justice, house committee on appropriations, senate committee on
20 ways and means, legislative post audit committee and any joint committee
21 with authority to consider children's and families' issues, when carrying
22 out such member's or committee's official functions in accordance with
23 K.S.A. 75-4319, and amendments thereto, in a closed or executive
24 meeting. Except in limited conditions established by $\frac{2}{3}$ of the members of
25 such committee, records and reports received by the committee shall not
26 be further disclosed. Unauthorized disclosure may subject such member to
27 discipline or censure from the house of representatives or senate. The
28 secretary of social and rehabilitation services shall not summarize the
29 outcome of department actions regarding a child alleged to be a child in
30 need of care in information available to members of such committees.

31 (2) The secretary of social and rehabilitation services may summarize
32 the outcome of department actions regarding a child alleged to be a child
33 in need of care to a person having made such report.

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

37 (A) The individuals involved or their representatives have given
38 express written consent; or

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

1 (e) *Court order.* Notwithstanding the provisions of this section, a
2 court of competent jurisdiction, after in camera inspection, may order
3 disclosure of confidential agency records pursuant to a determination that
4 the disclosure is in the best interests of the child who is the subject of the
5 reports or that the records are necessary for the proceedings of the court
6 and otherwise admissible as evidence. The court shall specify the terms of
7 disclosure and impose appropriate limitations.

8 (f) (1) Notwithstanding any other provision of law to the contrary,
9 except as provided in paragraph (4), in the event that child abuse or
10 neglect results in a child fatality or near fatality, reports or records of a
11 child alleged or adjudicated to be in need of care received by the secretary,
12 a law enforcement agency or any juvenile intake and assessment worker
13 shall become a public record and subject to disclosure pursuant to K.S.A.
14 45-215, and amendments thereto.

15 (2) Within seven days of receipt of a request in accordance with the
16 procedures adopted under K.S.A. 45-220, and amendments thereto, the
17 secretary shall notify any affected individual that an open records request
18 has been made concerning such records. The secretary or any affected
19 individual may file a motion requesting the court to prevent disclosure of
20 such record or report, or any select portion thereof. If the affected
21 individual does not file such motion within seven days of notification, and
22 the secretary has not filed a motion, the secretary shall release the reports
23 or records. If such motion is filed, the court shall consider the effect such
24 disclosure may have upon an ongoing criminal investigation, a pending
25 prosecution, or the privacy of the child, if living, or the child's siblings,
26 parents or guardians. The court shall make written findings on the record
27 justifying the closing of the records and shall provide a copy of the journal
28 entry to the affected parties and the individual requesting disclosure
29 pursuant to the Kansas open records act, K.S.A. 45-215 et seq., and
30 amendments thereto.

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

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

42 Sec. 11. K.S.A. 2017 Supp. 38-2309 is hereby amended to read as
43 follows: 38-2309. (a) *Official file.* The official file of proceedings pursuant

1 to this code shall consist of the complaint, process, service of process,
2 orders, writs and journal entries reflecting hearings held, judgments and
3 decrees entered by the court. The official file shall be kept separate from
4 other records of the court.

5 (b) The official file shall be open for public inspection, unless the
6 judge determines that opening the official file for public inspection is not
7 in the best interests of a juvenile who is less than 14 years of age.
8 Information identifying victims and alleged victims of sex offenses, as
9 defined in article 35 of chapter 21 of the Kansas Statutes Annotated, prior
10 to their repeal, or article 55 of chapter 21 of the Kansas Statutes
11 Annotated, or K.S.A. 2017 Supp. 21-6419 through 21-6422, and
12 amendments thereto, or human trafficking or aggravated human
13 trafficking, as defined in K.S.A. 21-3446 or 21-3447, prior to their repeal,
14 or K.S.A. 2017 Supp. 21-5426, and amendments thereto, shall not be
15 disclosed or open to public inspection under any circumstances. Nothing in
16 this section shall prohibit the victim or alleged victim of any sex offense
17 from voluntarily disclosing such victim's identity. An official file closed
18 pursuant to this section and information identifying the victim or alleged
19 victim of any sex offense shall be disclosed only to the following:

20 (1) A judge of the district court and members of the staff of the court
21 designated by the judge;

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

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

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

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

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

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

36 (8) juvenile intake and assessment workers;

37 (9) the commissioner;

38 (10) *the office of the child advocate for children's protection and*
39 *services, pursuant to sections 1 through 9, and amendments thereto;*

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

42 ~~(11)~~(12) the commission on judicial performance in the discharge of
43 the commission's duties pursuant to article 32 of chapter 20 of the Kansas

1 Statutes Annotated, and amendments thereto.

2 (c) *Social file*. Reports and information received by the court, other
3 than the official file, shall be privileged and open to inspection only by
4 attorneys for the parties, juvenile intake and assessment workers, court
5 appointed special advocates, juvenile community corrections officers, the
6 juvenile's guardian ad litem, if any, or upon order of a judge of the district
7 court or appellate court. The reports shall not be further disclosed without
8 approval of the court or by being presented as admissible evidence.

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

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

28 Sec. 12. K.S.A. 2017 Supp. 38-2310 is hereby amended to read as
29 follows: 38-2310. (a) All records of law enforcement officers and agencies
30 and municipal courts concerning an offense committed or alleged to have
31 been committed by a juvenile under 14 years of age shall be kept readily
32 distinguishable from criminal and other records and shall not be disclosed
33 to anyone except:

34 (1) The judge of the district court and members of the staff of the
35 court designated by the judge;

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

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

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

42 (5) any educational institution, to the extent necessary to enable the
43 educational institution to provide the safest possible environment for its

1 pupils and employees;

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

4 (7) law enforcement officers or county or district attorneys, or their
5 staff, when necessary for the discharge of their official duties;

6 (8) the central repository, as defined by K.S.A. 22-4701, and
7 amendments thereto, for use only as a part of the juvenile offender
8 information system established under K.S.A. 2017 Supp. 38-2326, and
9 amendments thereto;

10 (9) juvenile intake and assessment workers;

11 (10) the department of corrections;

12 (11) juvenile community corrections officers;

13 (12) the interstate compact for juveniles compact administrator for
14 the purpose of carrying out the responsibilities related to the interstate
15 compact for juveniles;

16 (13) *the office of the child advocate for children's protection and*
17 *services, pursuant to sections 1 through 9, and amendments thereto.*

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

20 ~~(14)~~(15) as provided in subsection (c).

21 (b) The provisions of this section shall not apply to records
22 concerning:

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

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

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

32 (c) All records of law enforcement officers and agencies and
33 municipal courts concerning an offense committed or alleged to have been
34 committed by a juvenile 14 or more years of age shall be subject to the
35 same disclosure restrictions as the records of adults. Information
36 identifying victims and alleged victims of sex offenses, as defined in
37 article 35 of chapter 21 of the Kansas Statutes Annotated, prior to their
38 repeal, or article 55 of chapter 21 of the Kansas Statutes Annotated, and
39 amendments thereto, K.S.A. 2017 Supp. 21-6419 through 21-6422, and
40 amendments thereto, or human trafficking or aggravated human
41 trafficking, as defined in K.S.A. 21-3446 or 21-3447, prior to their repeal,
42 or K.S.A. 2017 Supp. 21-5426, and amendments thereto, shall not be
43 disclosed or open to public inspection under any circumstances. Nothing in

1 this section shall prohibit the victim or any alleged victim of any sex
2 offense from voluntarily disclosing such victim's identity.

3 (d) Relevant information, reports and records, shall be made available
4 to the department of corrections upon request and a showing that the
5 former juvenile has been convicted of a crime and placed in the custody of
6 the secretary of corrections.

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

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

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

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

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

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

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

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

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

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

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

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

1 workers, addiction counselors and licensed or registered child care
2 providers;

3 (J) a citizen review board pursuant to K.S.A. 2017 Supp. 38-2207,
4 and amendments thereto;

5 (K) an educational institution to the extent necessary to enable such
6 institution to provide the safest possible environment for pupils and
7 employees of the institution;

8 (L) any educator to the extent necessary for the protection of the
9 educator and pupils;

10 (M) any juvenile intake and assessment worker of another certified
11 juvenile intake and assessment program; and

12 (N) the interstate compact for juveniles compact administrator for the
13 purpose of carrying out the responsibilities related to the interstate
14 compact for juveniles.

15 Sec. 13. K.S.A. 2017 Supp. 38-2212, 38-2309 and 38-2310 are
16 hereby repealed.

17 Sec. 14. This act shall take effect and be in force from and after its
18 publication in the statute book.