

SENATE BILL No. 181

By Committee on Public Health and Welfare

2-7

1 AN ACT concerning children and minors; relating to cities and counties;
2 establishing city and county child death review boards; permitting and
3 requiring disclosure of records; amending K.S.A. 22a-241 and K.S.A.
4 2022 Supp. 22a-243 and repealing the existing sections.

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

7 New Section 1. (a) The governing body of any city or board of county
8 commissioners may create an entity established for the purpose of
9 providing a local review of a child death when such death occurred in such
10 city or county or the child was a resident of such city or county.

11 (b) For the purpose of a city or county review board established
12 pursuant to subsection (a), such city or county review board shall have
13 access to:

- 14 (1) Law enforcement investigative information regarding the death;
15 (2) autopsy records and coroner's investigative records regarding the
16 death;
17 (3) medical records of the child;
18 (4) records of the Kansas department for children and families or the
19 department's designee concerning the child or the child's family; and
20 (5) records of any social services agency that has provided services to
21 the child or the child's family during the three years preceding the child's
22 death.

23 (c) Information acquired by and records of a city or county review
24 board shall be confidential, shall not be disclosed and shall not be subject
25 to subpoena, discovery or introduction into evidence in any civil or
26 criminal proceeding, except as provided in this subsection.

27 (1) A city or county review board or the board's designee may
28 disclose such information and records to:

29 (A) Any member of the legislature or a legislative committee that has
30 legislative responsibility for the enabling or appropriating legislation if
31 such member or committee is carrying out the official functions of such
32 member or committee and if any such committee recesses into a closed or
33 executive meeting pursuant to K.S.A. 75-4319(a), and amendments
34 thereto, and has taken appropriate steps to preserve privacy of such
35 information and records;

36 (B) any person or entity contracting with a city or county review

1 board if the board has determined that disclosure of such information and
2 records is essential for completion of the contract and the board has taken
3 appropriate steps to preserve confidentiality;

4 (C) any person or entity if the information and records being
5 disclosed are statistics or conclusions of the city or county review board of
6 the same type included in an annual report;

7 (D) any law enforcement agency of the state or any political
8 subdivision thereof if the city or county review board determines that the
9 information and records being disclosed were not previously available to
10 such law enforcement agency for the investigation of the cause of the
11 child's death and:

12 (i) The board determines that the cause of the child's death was from
13 abuse or neglect; or

14 (ii) the board does not determine that the child's death was from
15 abuse or neglect and has knowledge of a law enforcement investigation
16 based on an official offense report as required in K.S.A. 2022 Supp. 21-
17 2501a, and amendments thereto, of abuse or neglect involving the death of
18 a child;

19 (E) any county or district attorney if the city or county review board
20 determines that the information and records being disclosed were not
21 previously available to such county or district attorney for the prosecution
22 of any crimes related to the cause of the child's death and:

23 (i) The board determines that the cause of the child's death was from
24 abuse or neglect; or

25 (ii) the board does not determine that the child's death was from
26 abuse or neglect and has knowledge of a law enforcement investigation
27 based on an official offense report as required in K.S.A. 2022 Supp. 21-
28 2501a, and amendments thereto, of abuse or neglect involving the death of
29 a child;

30 (F) any licensing body as defined by K.S.A. 74-146, and amendments
31 thereto, if:

32 (i) The information and records being disclosed are related to a
33 disciplinary complaint against a person licensed by such licensing body;

34 (ii) any member of the city or county review board is under a
35 professional obligation to make a disciplinary complaint against a person
36 licensed by such licensing body; or

37 (iii) a person licensed by such licensing body may have caused or
38 contributed to the child's death; and

39 (G) a governmental agency or an organization that has a federalwide
40 assurance for the protection of human subjects in good standing with the
41 United States department of health and human services office for human
42 research protections, if:

43 (i) The agency or organization provides documentation that an

1 institutional review board designated in the federalwide assurance has
2 reviewed the organization's research proposal;

3 (ii) personally identifiable information is redacted from the
4 disclosure;

5 (iii) the disclosure is only for the purpose of health or education; and

6 (iv) the agency or organization requires all persons granted access to
7 the disclosed information and records to sign a confidentiality agreement
8 prior to receipt of the disclosed information and records.

9 (2) A city or county review board or the board's designee shall
10 disclose information acquired by and records of the board to the state
11 review board.

12 (3) The provisions of this subsection shall expire on July 1, 2028,
13 unless the legislature reviews and acts to continue such provisions
14 pursuant to K.S.A. 45-229, and amendments thereto, prior to July 1, 2028.

15 (d) Information, documents and records otherwise available from
16 other sources are not immune from discovery or use in a civil or criminal
17 action solely because they were presented during proceedings of a city or
18 county review board. A person who presented information before the board
19 or who is a member of the board shall not be prevented from testifying
20 about matters within the person's knowledge.

21 (e) A city or county review board may recess into an executive
22 meeting pursuant to K.S.A. 75-4319, and amendments thereto, prior to
23 discussing or reviewing any information acquired by and records of the
24 city or county review board.

25 (f) A city or county may adopt ordinances or resolutions as necessary
26 to carry out the provisions of this section.

27 Sec. 2. K.S.A. 22a-241 is hereby amended to read as follows: 22a-
28 241. As used in K.S.A. 22a-241 through 22a-244, and amendments
29 thereto, *and section 1, and amendments thereto*:

30 (a) "Child" means a person less than 18 years of age.

31 (b) "*City or county review board*" means an entity established
32 pursuant to section 1, and amendments thereto.

33 ~~(b)(c)~~ (c) "Pathologist" means a forensic pathologist, if available.
34 ~~Otherwise~~ If a forensic pathologist is not available, "pathologist" means a
35 physician licensed to practice medicine and surgery and qualified to
36 conduct an autopsy.

37 ~~(e)(d)~~ (d) "State review board" means the state child death review board
38 established by K.S.A. 22a-243, *and amendments thereto*.

39 ~~(d)(e)~~ (e) "Suspicious circumstances" includes, but is not limited to,
40 abuse or neglect.

41 Sec. 3. K.S.A. 2022 Supp. 22a-243 is hereby amended to read as
42 follows: 22a-243. (a) There is hereby established a state child death review
43 board, which shall be composed of:

1 (1) One member appointed by each of the following officers to
2 represent the officer's agency: The attorney general, the director of the
3 Kansas bureau of investigation, the secretary for children and families, the
4 secretary of health and environment and the commissioner of education;

5 (2) three members appointed by the state board of healing arts, one of
6 whom shall be a district coroner and two of whom shall be physicians
7 licensed to practice medicine and surgery, one specializing in pathology
8 and the other specializing in pediatrics;

9 (3) one person appointed by the attorney general to represent
10 advocacy groups that focus attention on child abuse awareness and
11 prevention; and

12 (4) one county or district attorney appointed by the Kansas county
13 and district attorneys association.

14 (b) The chairperson of the state review board shall be the member
15 appointed by the attorney general to represent the office of the attorney
16 general.

17 (c) The state child death review board shall be within the office of the
18 attorney general as a part thereof. All budgeting, purchasing and related
19 management functions of the board shall be administered under the
20 direction and supervision of the attorney general. All vouchers for
21 expenditures and all payrolls of the board shall be approved by the
22 chairperson of the board and by the attorney general. The state review
23 board shall establish and maintain an office in Topeka.

24 (d) The state review board shall meet at least annually to review all
25 reports submitted to the board. The chairperson of the state review board
26 may call a special meeting of the board at any time to review any report of
27 a child death.

28 (e) Within the limits of appropriations therefor, the state review board
29 shall appoint an executive director who shall be in the unclassified service
30 of the Kansas civil service act and shall receive an annual salary fixed by
31 the state review board.

32 (f) Within the limits of appropriations therefor, the state review board
33 may employ other persons who shall be in the classified service of the
34 Kansas civil service act.

35 (g) Members of the state review board shall not receive
36 compensation, subsistence allowances, mileage and expenses as provided
37 by K.S.A. 75-3223, and amendments thereto, for attending meetings or
38 subcommittee meetings of the board.

39 (h) The state review board shall develop a protocol to be used by the
40 state review board. The protocol shall include written guidelines for
41 coroners to use in identifying any suspicious deaths, procedures to be used
42 by the board in investigating child deaths, methods to ensure coordination
43 and cooperation among all agencies involved in child deaths and

1 procedures for facilitating prosecution of perpetrators when it appears the
2 cause of a child's death was from abuse or neglect. The protocol shall be
3 adopted by the state review board by rules and regulations.

4 (i) The state review board shall submit an annual report to the
5 governor and the legislature on or before October 1 of each year,
6 ~~commencing October 1993~~. Such report shall include the findings of the
7 board regarding reports of child deaths, the board's analysis and the board's
8 recommendations for improving child protection, including
9 recommendations for modifying statutes, rules and regulations, policies
10 and procedures.

11 (j) Information acquired by, and records of, the state review board
12 shall be confidential, shall not be disclosed and shall not be subject to
13 subpoena, discovery or introduction into evidence in any civil or criminal
14 proceeding, except that the state review board or the board's designee may
15 disclose such information and records to:

16 (1) Any member of the legislature or a legislative committee that has
17 legislative responsibility of the enabling or appropriating legislation, if
18 such member or committee is carrying out the official functions of such
19 member or committee, and if any such committee recesses into a closed or
20 executive meeting pursuant to K.S.A. 75-4319(a), and amendments
21 thereto, and has taken appropriate steps to preserve ~~its~~ *privacy of such*
22 *information and records*;

23 (2) any person or entity contracting with the state review board, if the
24 board has determined that disclosure of such information and records is
25 essential for completion of the contract, and the board has taken
26 appropriate steps to preserve confidentiality;

27 (3) any person or entity, if the information and records being
28 disclosed are statistics or conclusions of the state review board of the same
29 type included in its annual report pursuant to subsection (i);

30 (4) any law enforcement agency of the state or any political
31 subdivision thereof; if the state review board determines that the
32 information and records being disclosed were not previously available to
33 such law enforcement agency for the investigation of the cause of the
34 child's death; and:

35 (A) The board determines that the cause of the child's death was from
36 abuse or neglect; or

37 (B) the board does not determine that the child's death was from
38 abuse or neglect and has knowledge of a law enforcement investigation
39 based on an official offense report as required in K.S.A. 2022 Supp. 21-
40 2501a, and amendments thereto, of abuse or neglect involving the death of
41 a child;

42 (5) any county or district attorney; if the state review board
43 determines that the information and records being disclosed were not

1 previously available to such county or district attorney for the prosecution
2 of any crimes related to the cause of the child's death; and:

3 (A) The board determines that the cause of the child's death was from
4 abuse or neglect; or

5 (B) the board does not determine that the child's death was from
6 abuse or neglect and has knowledge of a law enforcement investigation
7 based on an official offense report as required in K.S.A. 2022 Supp. 21-
8 2501a, and amendments thereto, of abuse or neglect involving the death of
9 a child;

10 ~~(6)(A) any entity established by a city or county for the express~~
11 ~~purpose of providing a local review of child deaths if the information and~~
12 ~~records being disclosed are related to a child's death in an instance when:~~

13 ~~(i) Such death occurred in such city or county; or~~

14 ~~(ii) such child was a resident of such city or county;~~

15 ~~(B) the provisions of this paragraph shall expire on July 1, 2026,~~
16 ~~unless the legislature reviews and reenacts such provisions prior to July 1,~~
17 ~~2026; and~~

18 ~~(C) the joint committee on child welfare system oversight shall~~
19 ~~review the provisions of this paragraph pursuant to K.S.A. 46-3901, and~~
20 ~~amendments thereto;~~

21 ~~(7) any licensing body as defined by K.S.A. 74-146, and amendments~~
22 ~~thereto, if:~~

23 (A) The information and records being disclosed are related to a
24 disciplinary complaint against a person licensed by such licensing body;

25 (B) any member of the state review board is under a professional
26 obligation to make a disciplinary complaint against a person licensed by
27 such licensing body; or

28 (C) a person licensed by such licensing body may have caused or
29 contributed to the child's death; and

30 ~~(8)(7) a governmental agency or an organization that has a~~
31 ~~federalwide assurance (FWA) for the protection of human subjects in good~~
32 ~~standing with the United States department of health and human services~~
33 ~~office office for human research protections, if:~~

34 (A) The agency or organization provides documentation that an
35 institutional review board designated in the ~~FWA~~ *federalwide assurance*
36 has reviewed the organization's research proposal;

37 (B) personally identifiable information is redacted from the
38 disclosure;

39 (C) the disclosure is only for the purpose of health or education; and

40 (D) the agency or organization requires all persons granted access to
41 the disclosed information and records to sign a confidentiality agreement
42 prior to receipt of the disclosed information and records.

43 (k) (1) *The state review board or the board's designee shall disclose*

1 *information acquired by and records of the board to any entity established*
2 *by the governing body of any city or board of county commissioners for*
3 *the purpose of providing a local review of child deaths pursuant to section*
4 *1, and amendments thereto, if the information and records being disclosed*
5 *are related to a child's death in an instance when:*

6 (A) *Such death occurred in such city or county; or*

7 (B) *such child was a resident of such city or county.*

8 (2) *The provisions of this subsection shall expire on July 1, 2028,*
9 *unless the legislature reviews and acts to continue such provisions prior to*
10 *July 1, 2028.*

11 (3) *The joint committee on child welfare system oversight shall*
12 *review the provisions of this subsection.*

13 (l) *The state review board may adopt rules and regulations as*
14 *necessary to carry out the provisions of K.S.A. 22a-241 through 22a-244,*
15 *and amendments thereto.*

16 Sec. 4. *K.S.A. 22a-241 and K.S.A. 2022 Supp. 22a-243 are hereby*
17 *repealed.*

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