

SENATE BILL No. 37

By Senator Holland

1-22

1 AN ACT concerning children and minors; relating to reporting of certain
2 abuse and neglect; duly ordained minister of religion; employee of or
3 volunteer for a religious organization; amending K.S.A. 2018 Supp. 38-
4 2223 and repealing the existing section.

5
6 WHEREAS, The provisions of K.S.A. 2018 Supp. 38-2223, as
7 amended by this act, shall be known as Sheldon's law.

8 Now, therefore:

9 *Be it enacted by the Legislature of the State of Kansas:*

10 Section 1. K.S.A. 2018 Supp. 38-2223 is hereby amended to read as
11 follows: 38-2223. (a) *Persons making reports.* (1) When any of the
12 following persons has reason to suspect that a child has been harmed as a
13 result of physical, mental or emotional abuse or neglect or sexual abuse,
14 the person shall report the matter promptly as provided in subsections (b)
15 and (c);

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

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

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

33 (D) firefighters, emergency medical services personnel, law
34 enforcement officers, juvenile intake and assessment workers, court
35 services officers, community corrections officers, case managers appointed
36 under K.S.A. 2018 Supp. 23-3508, and amendments thereto, and mediators

1 appointed under K.S.A. 2018 Supp. 23-3502, and amendments thereto;
2 ~~and~~

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

7 (F) *any duly ordained minister of religion and any person employed*
8 *by or who works as a volunteer for any religious organization.*
9 *Notwithstanding any law to the contrary, the penitential communication*
10 *privilege as described in K.S.A. 60-429, and amendments thereto, shall not*
11 *apply to the reports required under this subsection.*

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

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

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

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

31 (1) When the Kansas department for children and families is not open
32 for business, reports shall be made to the appropriate law enforcement
33 agency. On the next day that the department is open for business, the law
34 enforcement agency shall report to the department any report received and
35 any investigation initiated pursuant to K.S.A. 2018 Supp. 38-2226, and
36 amendments thereto. The reports may be made orally or, on request of the
37 secretary, in writing.

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

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

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

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

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

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

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

24 (g) *As used in this section:*

25 (1) *"Duly ordained minister of religion" shall have the same meaning*
26 *as provided in K.S.A. 60-429, and amendments thereto; and*

27 (2) *"religious organization" means any organization, church, body of*
28 *communicants, or group, gathered in common membership for mutual*
29 *support and edification in piety, worship and religious observances, or a*
30 *society of individuals united for religious purposes at a definite place and*
31 *which religious organization maintains an established place of worship*
32 *within this state and has a regular schedule of services or meetings at*
33 *least on a weekly basis and has been determined to be organized and*
34 *created as a bona fide religious organization.*

35 Sec. 2. K.S.A. 2018 Supp. 38-2223 is hereby repealed.

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