

HOUSE BILL No. 2629

AN ACT concerning children and minors; relating to the state child death review board; replacing sudden infant death with sudden unexplained infant death; requiring the secretary for health and environment to provide a death certificate to the state child death review board; listing requirements for notification of a deceased child; increasing the number of members appointed by the state board of healing arts to the state child death review board; allowing for compensation for board members; providing for the disclosure of certain records to certain persons for securing grants and public officials for supplemental information to the board's annual report; directing that records be kept for 15 years after a case is closed; amending K.S.A. 22a-242, 22a-243 and 22a-244 and repealing the existing sections.

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

Section 1. K.S.A. 22a-242 is hereby amended to read as follows:

22a-242. (a) When a child dies, any law enforcement officer, health care provider or other person having knowledge of the death shall immediately notify the coroner of the known facts concerning the time, place, manner and circumstances of the death. If the notice to the coroner identifies any suspicious circumstances or unknown cause, as described in the protocol developed by the state review board under K.S.A. 22a-243, and amendments thereto, the coroner shall immediately: (1) Investigate the death to determine whether the child's death included any such suspicious circumstance or unknown cause; and (2) direct a pathologist to perform an autopsy.

(b) If, after investigation and an autopsy, the coroner determines that the death of a child does not include any suspicious circumstances or unknown cause, as described in the protocol developed by the state review board under K.S.A. 22a-243, and amendments thereto, ~~the coroner shall complete and sign a nonsuspicious child death form~~ *no further action by the coroner is required.*

(c) If, after investigation and an autopsy, the coroner determines that the death of a child includes any suspicious circumstance or unknown cause, as described in the protocol developed by the state review board under K.S.A. 22a-243, and amendments thereto, the coroner ~~shall notify, within 30 days, the chairperson of the state review board and~~ shall notify, within 24 hours, the county or district attorney of the county where the death of the child occurred.

(d) The coroner shall attempt to notify any parent or legal guardian of the deceased child prior to the performance of an autopsy pursuant to this section ~~and attempt to notify any such parent or legal guardian of the results of the autopsy. Once the autopsy has been completed, the coroner shall immediately notify the parent or legal guardian that such autopsy has been completed and provide information on how to obtain the results.~~

(e) A coroner shall not make a determination that the death of a child less than one year of age was caused by sudden *unexplained* infant death syndrome unless an autopsy is performed.

(f) The fee for an autopsy performed under this section shall be the usual and reasonable fee and travel allowance authorized under K.S.A. 22a-233, and amendments thereto, and shall be paid from the district coroners fund.

(g) *The secretary for health and environment shall provide a copy of the death certificate to the state child death review board that meets requirements developed by the board pursuant to K.S.A. 22a-243, and amendments thereto.*

Sec. 2. K.S.A. 22a-243 is hereby amended to read as follows: 22a-243. (a) There is hereby established a state child death review board, which shall be composed of:

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

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

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

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

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

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

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

(e) *When informed of a child death, the state review board shall review all child deaths of:*

(1) *Kansas residents who are less than 18 years of age, regardless of where such death occurred; and*

(2) *non-Kansas residents who are less than 18 years of age if such death occurred in Kansas.*

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

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

~~(g)~~(h) Members of the state review board ~~shall not~~ may receive compensation, subsistence allowances, mileage and expenses as provided by K.S.A. 75-3223, and amendments thereto, for attending meetings or subcommittee meetings of the board. *Compensation, subsistence allowances, mileage and expenses shall be approved by the chairperson of the state review board and the attorney general.*

~~(h)~~(i) The state review board shall develop a protocol to be used by the state review board. The protocol shall include written guidelines for coroners to use in identifying any suspicious deaths, procedures to be used by the board in investigating child deaths, methods to ensure coordination and cooperation among all agencies involved in child deaths and procedures for facilitating prosecution of perpetrators when it appears the cause of a child's death was from abuse or neglect. The protocol shall be adopted by the state review board by rules and regulations.

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

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

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

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

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

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

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

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

(5) any county or district attorney, if the state review board determines that the information and records being disclosed were not previously available to such county or district attorney for the prosecution of any crimes related to the cause of the child's death; and:

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

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

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

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

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

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

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

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

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

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

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

(8) a governmental agency or an organization that has a federalwide assurance (FWA) for the protection of human subjects in

good standing with the United States department of health and human services officer for human research protections, if:

(A) The agency or organization provides documentation that an institutional review board designated in the FWA has reviewed the organization's research proposal;

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

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

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

(9) any person or entity, if the information and records being disclosed are statistics or conclusions of the state review board and provided for the purpose of procuring and maintaining financial grants; and

(10) the governor and legislature, if the information and records being disclosed are statistics or conclusions of the state review board and provided for the purpose of supplementing the state review board's annual report.

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

Sec. 3. K.S.A. 22a-244 is hereby amended to read as follows: 22a-244. (a) Within 72 hours after receipt of notification from a coroner pursuant to K.S.A. 22a-242, and amendments thereto, the chairperson of the state review board may activate the board to investigate and make a written report regarding the death.

(b) The state review board shall have access to all law enforcement investigative information regarding the death; any autopsy records and coroner's investigative records relating to the death; any medical records of the child; and any records of the Kansas department for children and families or any other social service agency ~~which~~ *that* has provided services to the child or the child's family ~~within three years~~ preceding the child's death.

(c) The state review board may apply to the district court for the issuance of, and the district court may issue, a subpoena to compel the production of any books, records or papers relevant to the cause of any death being investigated by the board. Any books, records or papers received by the board pursuant to the subpoena shall be regarded as confidential and privileged information and not subject to disclosure.

(d) The state review board's report shall contain the circumstances leading up to the death and cause of death; any social service agency involvement prior to death, including the kinds of services delivered to the dead child or the child's parents, siblings or any other children in the home; the reasons for initial social service agency activity and the reasons for any termination of agency activities if involvement was terminated; whether court intervention had ever been sought and, if so, any action taken by the court; and recommendations for prevention of future death under similar circumstances.

~~(e) Within 15 days of its activation pursuant to this section, the state review board shall complete and transmit a copy of its written report to the county or district attorney of the county in which the child's death occurred. If the death of the child occurred in a different county than where the child resided, a copy of the report shall be sent to the county or district attorney of the county where the child resided or, if the child resided in another state, to the child protective services agency of that state.~~

~~(f)~~ The state review board shall maintain ~~permanent~~ records of all

written reports concerning child deaths *for at least 15 years after the date a case is closed.*

~~(e)~~(f) The state review board may disclose its conclusions regarding a report of a child death but shall not disclose any information received by the board ~~which~~ *that* is not subject to public disclosure by the agency that provided the information to the board.

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

Sec. 4. K.S.A. 22a-242, 22a-243 and 22a-244 are hereby repealed.

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

I hereby certify that the above BILL originated in the House,
and passed that body

HOUSE concurred in _____
SENATE amendments _____

Speaker of the House.

Chief Clerk of the House.

Passed the SENATE _____
as amended _____

President of the Senate.

Secretary of the Senate.

APPROVED _____

Governor.