

TOPEKA POLICE DEPARTMENT POLICY AND PROCEDURE MANUAL

4.14 JUVENILES

<b>SUBJECT: Juveniles</b>		
<b>4.14</b>	<b>EFFECTIVE:</b> 11-5-2021	<i>Bryan Wheelles</i> Bryan Wheelles, Chief of Police
	<b>REVISED:</b> 10-26-2021	
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A. In General

1. It is the responsibility of all members of this Department to familiarize themselves with juvenile problems and established procedures for handling both criminal and non-criminal juvenile incidents as defined in this policy and in the Kansas Juvenile Code.
2. State law mandates law enforcement to investigate cases of serious injury, death or sexual abuse of children, when it constitutes a crime.
3. The Department is committed to developing and implementing programs designed to prevent and control juvenile delinquency.
4. The Department participates and/or sponsors the following:
  - a. The Department assigns a School Resource Officer to middle schools within the city to collaborate with school and district administrators on issues and give formal presentations to students.
  - b. The Department sponsors and hosts the Topeka Police Explorer Post #7721 to prepare interested young person's ages 14 to 21 for law enforcement careers.
  - c. The Department participates in the Police Athletic League to promote youth participation in sports leagues.
  - d. The Criminal Investigative Bureau has a designated detective assigned to work with the Department of Children and Families to help with youth runaways, foster care and other issues involving youths in the community.
  - e. An officer assigned to the "Our Kids" program. The OK Program addresses the gaps in opportunities in the African American male youth population by providing strong male role models and mentors to include a Topeka Police Officer.
  - f. Youth Education Officer. These officers are assigned to Topeka Public Schools-TCALC and high schools-to work with students and staff in those schools.

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- g. Three Shields Boxing Academy. The officers assigned to the Three Shields Boxing academy provide mentorship and athletic opportunities to Topeka's youth in a safe, positive setting.
  - h. Boys and Girls Club of Topeka Chess Team. The officers assigned to the Chess Team offer Topeka's youth the opportunity to learn and compete in the game of chess in a positive, safe environment.
  - i. Boys and Girls Club of Topeka Teen Center Summer Leadership Program. The officers assigned to assist in the Summer Leadership Program provide mentorship to Topeka's youth while teaching them vital life skills in a positive and safe environment.
5. All children between the ages of four and eight who weigh less than 80 pounds or are less than 4'9" tall shall be transported using seat belts and booster seats. All children between the ages of eight and 14 who weigh more than 80 pounds or are taller than 4'9" shall be secured in the rear seat with seatbelts.
  6. All employees who transport children under the age of four shall use state approved restraining systems in the rear seat of the vehicle.

#### B. Enforcement Alternatives

1. Officers are required to use the least coercive option among reasonable alternatives when dealing with juveniles in enforcement capacities as outlined in this policy.
2. Officers should determine whether the juvenile has been harmed or is in danger of being harmed, such as:
  - a. Physical abuse;
  - b. Sexual abuse;
  - c. Environmental needs (lack of food, unsuitable living conditions, lack of heat, water or other essential utilities or the combination thereof) are not going to be met; or
  - d. Domestic violence that places the juvenile at risk.
3. After officers consider the condition and the capacity of the juvenile, the following alternative actions may be considered:
  - a. Release without further action;
  - b. Informal counseling to inform the youth of the consequences of his/her actions;
  - c. Informal referrals to community services. (Referral to parents or legal guardian. Officers may elect to transport the youth home, or direct him or her to return home. Where parents or guardians cannot be contacted or refuse to accept custody, the officer shall contact the Department-

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- approved youth services agency for placement.);
- d. Informal counseling of parents or legal guardian. Officers should make contact with the youth's parents or guardians to provide them with information on their child's actions;
- e. Limited custody and official warning. Officers may detain or take custody of a juvenile until he or she is released to a parent or guardian or when lost, seriously endangered or is a runaway;
- f. Issuance of a summons or complaint;
- g. Referral to juvenile court;
  
- h. Arrest under non secure custody; or
- i. Arrest under secure custody.

#### C. Status Offenses

1. Officers should use discretion in determining whether to charge a juvenile with a status offense. (Note: A status offense is a non-criminal misdemeanor that would not be a crime if committed by an adult.)
2. Officers shall make reasonable efforts to notify the parent, guardian or custodian of any youth under the age of 18 who is:
  - a. Taken into custody, regardless of age;
  - b. Subject to any enforcement action;
  - c. Detained for a significant period of time; or
  - d. Interviewed as a criminal suspect. A child under the age of 14 must have parent or guardian present before being interviewed or read their Miranda warning.
  - e. Officers shall document the notification and response on the appropriate report
3. When taking juveniles into custody for status offenses:
  - a. Search for weapons prior to transport.
  - b. Handcuff or otherwise restrain at any time if, in the judgment of the officer, the juvenile may flee, poses a physical risk to the officer, others, or themselves.
4. Hold in Non-Secure Custody - as provided by state law.  
A condition under which a juvenile's freedom of movement is controlled by members of this agency and, during such time, the juvenile is:
  - a. Held in an unlocked, multi-purpose area, such as a report-writing room or an office;
  - b. At no time handcuffed to any stationary object;
  - c. Held only long enough to complete identification, investigation and

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processing and then released to a parent or legal guardian or transferred to a juvenile facility or court;

- d. Under continuous visual supervision until released;
  - e. Fingerprinting or photographing for records purposes shall be completed at the Juvenile Detention Center;
  - f. Not placed in a holding area with adult suspects;
  - g. Afforded reasonable access to toilets and washing facilities;
  - h. May be provided food to include any special diets necessary for health or medical purposes;
  - i. Provided with reasonable access to water or other beverages; and
  - j. Allowed reasonable access to a telephone at the Officer's discretion.
5. Officers shall pay particular attention to juveniles under the influence of alcohol or drugs to determine whether emergency medical services are warranted.
  6. An officer may release a juvenile to his/her parents or guardian.

#### D. Juvenile Citations

1. Instruct juvenile's parent or guardian to call Department-approved youth services agency or applicable court;
2. A copy is given to the juvenile's responsible adult; and
3. The other copies go to Records.

#### E. Criminal-Offenses

1. Officers should be familiar with the Kansas Juvenile Justice Code located at KSA 38-2301 *et seq.*, and specifically KSA 38-2330, which deals with when a juvenile may be taken into custody.
2. A juvenile who is taken into custody shall be brought without unnecessary delay to the custody of the juvenile's parent or other custodian, unless there are reasonable grounds to believe that such action would not be in the best interests of the child or would pose a risk to public safety or property.
3. If the juvenile cannot be delivered to the juvenile's parent or custodian, the officer may:
  - a. Issue a notice to appear, or
  - b. Contact or deliver the juvenile to an intake assessment worker for completion of the intake assessment process.
4. The notice to appear shall contain the name and address of the juvenile

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detained, the crime(s) charged and the location and phone number of the juvenile intake and assessment services office where the juvenile will need to appear with a parent or guardian.

5. The juvenile intake assessment services office specified in such notice to appear must be contacted by the juvenile or a parent or guardian no more than 48 hours after such notice is given, excluding weekends and holidays.
6. The juvenile must give a written promise to call within the time specified by signing the written notice prepared by the Officer. The original notice shall be retained by the Officer and a copy shall be delivered to the juvenile detained and that juvenile's parent or guardian if such juvenile is less than 18 years of age. The Officer shall then release the juvenile.
7. The Officer shall cause to be filed, without unnecessary delay, a complaint with Juvenile Intake Assessment Services in which a juvenile released pursuant to paragraph (6) is given notice to appear, charging the crime stated in such notice. A copy shall also be provided to the District Attorney. If the juvenile released fails to contact juvenile intake assessment services as required in the notice to appear, Juvenile Intake Assessment services will notify the District Attorney.
8. Secure custody/detention is a condition in which a juvenile is physically detained or confined in a locked room or cell that is designated, set aside, or used for the specific purpose of securely detaining persons who are in law enforcement custody. Transportation of a juvenile in a caged vehicle is not considered secure custody.
  - a. All fingerprints and photographs of juveniles, 14 and under, taken into custody for criminal offenses shall be maintained at the Juvenile Department of Corrections.
  - b. All Juvenile records 14 and under shall be maintained separate from adult records within the Topeka Police Department Records Unit and are subject to controlled dissemination as provided by law.
9. The juvenile shall be informed of the procedures that will be followed with regard to custody, release, and transportation to another facility or to a custody hearing.
10. Constitutional Rights – Officers shall ensure the constitutional rights of the juvenile are protected.
11. Prior to custodial interviews or questioning:

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- a. If requested, the juvenile's parents, guardian or attorney may be present. If the parent or guardian is not present the officer should attempt to contact the parents or guardian after the interrogation to advise them of the status.
  - b. A juvenile under 14 years of age must be given the opportunity to consult with parent, guardian, or attorney as to whether to waive juvenile's rights to an attorney and against self-incrimination.
  - c. In the absence of a parent or guardian, juveniles 14 and over may be questioned and provide statements if reasonable assurances can be made that the juvenile fully understands his/her constitutional rights.
  - d. Interrogation of juveniles should not extend over periods of time that could be considered unreasonable or harassing, and whenever possible should be conducted by only one officer at a time.
12. Officers are not authorized to perform a strip search of a juvenile. A strip search is only conducted by the Department of Corrections in accordance to their policy as well as TPD policy. Strip searches are prohibited in any case where a person is detained or arrested solely for a traffic or regulatory, nonviolent misdemeanor offense unless there is probable cause to believe that the person is concealing a weapon or controlled substance and authorized by a supervisor. A strip search shall be documented in the officer's narrative to include the time and location where the search occurred and who was present for the search. Strip searches shall be conducted by persons of the same sex as the person being searched and shall be conducted in private unless waived by the person being searched. If the person being searched identifies as other than their birth gender, the individual may request an officer of that identity to conduct the search.
13. Body cavity searches of a juvenile shall be conducted only under the authority of a search warrant specifically authorizing a body cavity search. Only a licensed physician or registered nurse may conduct a body cavity search. The body cavity search shall be documented in the officer's narrative to include the time and location of the search, who conducted the search and who was present during the search. Only officers of the same sex as the person being searched may be present while a body cavity search is being conducted. If the person being searched identifies as other than their birth gender, the individual may request an officer of that identity be present while the body cavity search is being conducted.
14. Following completion of a strip search and/or a body cavity search, the officer conducting the search shall prepare a report which includes:
- a. The name and sex of the person searched;
  - b. The name and sex of the person conducting the search;

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- c. The time, date and place of the search; and
- d. A statement of the results of the search.

#### F. Reporting Requirements

1. Incident reports or Juvenile Data Reports may be used to record non-custodial alternatives or informal enforcement contacts with juveniles. These reports shall clearly identify the juveniles involved, the nature of the incident and the reasons for the officer's actions.
2. Juveniles taken into custody for criminal offenses shall be subject to the same reporting requirements as adults. A custody record should be maintained in the Juvenile Data Report for each juvenile arrest. The custody record shall specify the time in which each period of interrogation was commenced and completed, the names of the officers present, and the names of the parent(s) or responsible adult(s) present.

#### G. Child in Need of Care; Abuse/Neglect

The investigation should determine if the complaint justifies immediate action in order to protect the safety and well-being of the child.

1. Officers shall be familiar with the Kansas Code for Care of Children located at KSA 38-2201 *et. seq.*, which deals specifically with child abuse or neglect.
2. Legally the officer has authority to take a child into custody when the officer has reasonable grounds to believe the child is in danger.
3. Officers articulate these grounds based on their observations and interviews.
4. Citizens having knowledge of this crime are not required to become involved but some may have a duty to report the abuse based on job requirements. Some citizens may remain anonymous when reporting child abuse cases.
5. Parents do not have the right to refuse officers' access to any child allegedly abused.
6. If the officer has probable cause to believe a child is in imminent danger, the officer may enter the home to check on the child's welfare.

#### H. Procedure

1. Patrol Officers responsibilities:

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- a. Make sure victim is safe and receives care;
  - b. Officers shall be familiar with the Kansas Code for Child Abuse or Neglect Investigations located at KSA 38-2226 et. Seq., which deals specifically with child abuse or neglect including amendments commonly known as "Adrian's Law."
    - (i) In cases of neglect and abuse of a child, this statute requires that law enforcement makes visual observation of the child. This policy alone does not provide an exception to the warrant rule or the presence of exigent circumstances.
    - (ii) A designee may be appointed to make that observation.
    - (iii) Even if the investigation is being conducted jointly with another non-law enforcement agency, a Topeka Police Law Enforcement Officer or their designee must make visual observation of the child.
    - (iv) In cases of a designee, officers should assess the potential selection for credibility and interest of the party.
  - c. A supervisor shall respond to any citizen report of abuse/neglect of a child.
  - d. Secure the crime scene.
  - e. In some cases, the first officer on the scene will:
    - (i) Remove the child to safety;
    - (ii) Send the child to the hospital if the child needs emergency medical attention;
    - (iii) Take the child into custody and Department-approved youth services agency for placement; and
  - f. FOB shall notify CIB in cases where immediate investigation is needed.
2. CIB investigators should conduct the following investigation when appropriate.
- a. Obtain a search warrant to obtain physical evidence.
  - b. The investigator should at a minimum locate a crime scene and have it processed by CSI. Thereby ensuring trace evidence is located.
  - c. When a report of child abuse or neglect indicates that there is serious physical harm to, serious deterioration of or sexual abuse of the child; and that action may be required to protect the child, the investigation shall be conducted as a joint effort between the secretary (DCF) and the appropriate law enforcement agency or agencies, with a free exchange of information between them. If a statement of a suspect is obtained by either agency, a copy of the statement shall be provided to the other.
  - d. Take appropriate investigatory steps (such as SANE exam, SAFETALK).
  - e. Interview all parties & reduce those interviews to writing

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- f. Interview the suspect and produce a written statement;
  - g. Run a background check, including Triple I, on the suspect;
  - h. Arrest the suspect if he confesses to the crime or if the evidence supports the arrest;
  - i. Review the case with the prosecuting attorney;
  - j. Notify and work with other divisions and agencies;
  - k. Collect all related medical reports & records from any other involved agencies;
  - l. Gather all reports and documents regarding the case and forward to the District Attorney and DCF as denoted by Department procedure;
  - m. Testify at all hearings in reference to his cases; and
  - n. Complete necessary reports on all follow-up investigation information and include it with the case file.
3. Interview the victim and witnesses
- a. CIB shall initiate the Safe Talk protocol
    - (i) Project Safe Talk
      - (a) Multi-disciplinary response to child abuse. This approach is based on an agreement among the Shawnee County District Attorney's Office, DCF, the Topeka Police Department and the Shawnee County Sheriff's Office. These agencies integrate different approaches and coordinate services to produce a comprehensive response that best meets the needs of the child abuse victims and their families.
      - (b) Instead of each agency maintaining its own methods for handling cases of child abuse, the agencies respond using the mutually agreed upon procedures with a free exchange of information between them.
    - (i) Child Advocacy Center
      - (a) Neutral facility used during the intervention phase of the Safe Talk protocol. This facility is separate from any agency involved in the process. This facility provides a safe, secure setting for children in order to facilitate interaction.
    - (iii) Project Goals
      - (a) Develop a comprehensive, multi-disciplinary response to child abuse which meets the needs of child victims and their families.
      - (b) Establish a neutral - based facility for interviewing abused children.
      - (c) Prevent trauma to the child caused by multiple contacts with community professionals.

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- (d) Refer families to needed services, which will assist them in regaining improved functioning.
  - (e) Maintain open communication and case coordination between community professionals and agencies involved in child protection efforts.
  - (f) Coordinate and track investigative and prosecutorial efforts.
  - (g) Obtain information useful for criminal and civil proceedings.
- (iv) Interview Process Overview
- (a) The Department and DCF may jointly conduct Safe Talk interviews.
  - (b) One interviewer conducts the interview.
    - (1) The needs of the child and the evidentiary process govern the selection of the interviewer.
    - (2) Selection criteria include interviewer's experience and knowledge, sex, race and/or culture, relationship with the child and presence in court.
    - (3) An interview guide is developed and used during the interview.
  - (c) The non-interviewer operates the communication and recording devices used to record the interview.
  - (d) A copy of the video shall remain with the Department as evidence. Additional copies should be provided to District Attorney's Office or DCF as requested.
  - (e) CIB or DCF may interview school age victims in school where appropriate.
  - (f) Officers shall forward all information relating to child abuse and sexual abuse cases to CIB by completing a Kansas Standard Offense Report,(KSOR) and Juvenile Data Report (JDR).
- (v) The Code of Civil Procedure applies in child in need of care proceedings.
- (a) Noted exception: Evidence relating to physician/patient, psychologist/client, or social worker/client privileged information may be included when relevant to the prosecution's case but is to be collected and stored in accordance with department procedure governing same.
  - (b) In cases of possible or unconfirmed child abuse/neglect/sexual abuse, the reporting Officer/Detective shall make an incident report with all the available information.
    - (1) CIB shall forward these cases to the Kansas Department for Children and Families (DCF) for

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determination of whether the incident is confirmed or unfounded.

- (2) If the case is confirmed, CIB shall assign and investigate the case as soon as possible.

#### I. Collect Evidence

1. The reporting officer or investigating detective should have the evidence (pictures, clothing, etc.) collected by CSI whenever possible.
2. In the case of suspected sexual abuse, the SANE/SART procedures should be followed.
3. Child Sexual Abuse Material (CSAM) Evidence.
  - a. Part of the forensic interview may lead to copying of CSAM to present to the child during a forensic interview. This material should be:
    - (1) Copied or printed to a designated printer that is in a secure location at the LEC
    - (2) Kept in a secure locked location at the detectives desk or area in their control until it is ready to presented during the forensic interview
    - (3) Securely transported to the place of the interview and control maintained by the detective and/or interviewer during the duration of the interview. After the interview is complete the detective should take control of the CSAM as soon as appropriate
    - (4) Once the detective has completed the interview the CSAM shall be brought back to the LEC and placed into property. The evidence packaging should be clearly marked as containing CSAM
    - (5) The recorded forensic interview may capture the CSAM as it is being presented. If so the recording shall be brought back to the LEC and placed into property and clearly marked as containing CSAM.

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## **Attachment A**

### Juvenile Offender Code

"**Juvenile offender**" is defined by KSA 38-2302 as a person who commits an offense while 10 or more years of age but less than 18 years of age which if committed by an adult would constitute the commission of a felony or misdemeanor as defined by K.S.A. 21-5102, and amendments thereto, or who violates the provisions of K.S.A. 41-727, K.S.A. 74-8810(j) or K.S.A. 21-6301(a)(14), and amendments thereto, but does not include:

1. A person 14 or more years of age who commits a traffic offense, as defined in K.S.A. 8-2117(d), and amendments thereto;
2. A person 16 years of age or over who commits an offense defined in chapter 32 of the Kansas Statutes Annotated, and amendments thereto;
3. A person under 18 years of age who previously has been:
  - a. Convicted as an adult under the Kansas criminal code;
  - b. Sentenced as an adult under the Kansas criminal code following termination of status as an extended jurisdiction juvenile pursuant to K.S.A. 38-2364, and amendments thereto; or
  - c. Convicted or sentenced as an adult in another state or foreign jurisdiction under substantially similar procedures described in K.S.A. 38-2347, and amendments thereto, or because of attaining the age of majority designated in that state or jurisdiction.
4. A person who is 9 years old or less falls under the Child In Need of Care code.

## Attachment B

### Child In Need of Care Code

KSA 38-2202 defines:

**"Child In Need of Care"** means a person less than 18 years of age at the time of filing of the petition or issuance of an ex parte protective custody order pursuant to K.S.A. 38-2242, and amendments thereto, who:

- (1) Is without adequate parental care, control or subsistence and the condition is not due solely to the lack of financial means of the child's parents or other custodian;
- (2) is without the care or control necessary for the child's physical, mental or emotional health;
- (3) has been physically, mentally or emotionally abused or neglected or sexually abused;
- (4) has been placed for care or adoption in violation of law;
- (5) has been abandoned or does not have a known living parent;
- (6) is not attending school as required by K.S.A. 72-977 or 72-1111, and amendments thereto;
- (7) except in the case of a violation of K.S.A. 41-727, K.S.A. 74-8810(j), K.S.A. 79-3321(m) or (n), or K.S.A. 21-6301(a)(14), and amendments thereto, or, except as provided in paragraph (12), does an act which, when committed by a person under 18 years of age, is prohibited by state law, city ordinance or county resolution but which is not prohibited when done by an adult;
- (8) While less than 10 years of age, commits any act that if done by an adult would constitute the commission of a felony or misdemeanor as defined by K.S.A. 21-5102, and amendments thereto;
- (9) is willfully and voluntarily absent from the child's home without the consent of the child's parent or other custodian;
- (10) is willfully and voluntarily absent at least a second time from a court ordered or designated placement, or a placement pursuant to court order, if the absence is without the consent of the person with whom the child is placed or, if the child is placed in a facility, without the consent of the person in charge of such facility or such person's designee;

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(11) has been residing in the same residence with a sibling or another person under 18 years of age, who has been physically, mentally or emotionally abused or neglected, or sexually abused;

(12) while less than 10 years of age commits the offense defined in K.S.A. 21-6301(a)(14), and amendments thereto;

(13) has had a permanent custodian appointed and the permanent custodian is no longer able or willing to serve; or

(14) has been subjected to an act that would constitute human trafficking or aggravated human trafficking, as defined by K.S.A. 21-5426, and amendments thereto, or commercial sexual exploitation of a child, as defined by K.S.A. 21-6422, and amendments thereto, or has committed an act that if committed by an adult, would constitute selling sexual relations, as defined by K.S.A. 21-6419, and amendments thereto.

**"Harm"** means physical or psychological injury or damage.

**"Neglect"** means acts or omissions by a parent, guardian or person responsible for the care of a child resulting in harm to a child, or presenting a likelihood of harm, and the acts or omissions are not due solely to the lack of financial means of the child's parents or other custodian. Neglect may include, but shall not be limited to:

(1) Failure to provide the child with food, clothing or shelter necessary to sustain the life or health of the child;

(2) Failure to provide adequate supervision of a child or to remove a child from a situation that requires judgment or actions beyond the child's level of maturity, physical condition or mental abilities and that results in bodily injury or a likelihood of harm to the child; or

(3) Failure to use resources available to treat a diagnosed medical condition if such treatment will make a child substantially more comfortable, reduce pain and suffering, or correct or substantially diminish a crippling condition from worsening. A parent legitimately practicing religious beliefs who does not provide specified medical treatment for a child because of religious beliefs shall not for that reason be considered a negligent parent; however, this exception shall not preclude a court from entering an order pursuant to K.S.A. 38-2217(a)(2), and amendments thereto.

**"Physical, mental or emotional abuse"** means the infliction of physical, mental or emotional harm or the causing of a deterioration of a child and may include, but shall not be limited to, maltreatment or exploiting a child to the extent that the child's health or emotional well-being is endangered.

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**"Sexual abuse"** means any contact or interaction with a child in which the child is being used for the sexual stimulation of the perpetrator, the child or another person. Sexual abuse shall include, but is not limited to, allowing, permitting or encouraging a child to:

- (1) Be photographed, filmed or depicted in pornographic material; or
- (2) Be subjected to aggravated human trafficking, as defined in K.S.A. 21-5426(b), and amendments thereto, if committed in whole or in part for the purpose of the sexual gratification of the offender or another, or be subjected to an act which would constitute conduct proscribed by article 55 of chapter 21 of the Kansas Statutes Annotated or K.S.A. 21-6419 or 21-6422, and amendments thereto.

#### KSA 38-2231 – When Juvenile May Be Taken Into Custody

(a) A law enforcement officer shall take a child under 18 years of age into custody when:

- (1) The law enforcement officer or court services officer has a court order commanding that the child be taken into custody as a child in need of care; or
- (2) The law enforcement officer or court services officer has probable cause to believe that a court order commanding that the child be taken into custody as a child in need of care has been issued in this state or in another jurisdiction.

(b) A law enforcement officer shall take a child under 18 years of age into custody when the officer:

- (1) Reasonably believes the child will be harmed if not immediately removed from the place or residence where the child has been found;
- (2) Has probable cause to believe that the child is a runaway or a missing person or a verified missing person entry for the child can be found in the national crime information center missing person system; or
- (3) Reasonably believes the child is a victim of human trafficking, aggravated human trafficking or commercial sexual exploitation of a child.
- (4) Reasonably believe the child is a victim of experiencing a mental health crisis and is likely to cause harm to self or others.

(c)(1) If a person provides shelter to a child whom the person knows is a runaway, such person shall promptly report the child's location either to a law enforcement agency or to the child's parent or other custodian.

- (2) If a person reports a runaway's location to a law enforcement agency pursuant to this section and a law enforcement officer of the agency has reasonable grounds to believe that it is in the child's best interests, the child may be allowed to remain in the place where

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the shelter is being provided, subject to subsection (b), in the absence of a court order to the contrary. If the child is allowed to so remain, the law enforcement agency shall promptly notify the secretary of the child's location and circumstances.

Except as provided in subsections (a) and (b), a law enforcement officer may temporarily detain and assume temporary custody of any child subject to compulsory school attendance, pursuant to K.S.A. 72-1111, and amendments thereto, during the hours school is actually in session and shall deliver the child pursuant to K.S.A. 38-2232(g), and amendments thereto.

#### CINC – KSA 38-2232 – Duties of Officers

(a) (1) To the extent possible, when any law enforcement officer takes into custody a child under the age of 18 years without a court order, the child shall be delivered to the custody of the child's parent or other custodian unless there are reasonable grounds to believe that such action would not be in the best interests of the child.

(2) Except as provided in subsection (b), if the child is not delivered to the custody of the child's parent or other custodian, the child shall promptly be delivered to;

(A)(i) a shelter facility designated by the court;

(ii) court services officer,

(iii) juvenile intake and assessment worker,

(iv) licensed attendant care center or other person or,

(v) Juvenile crisis intervention center after written authorization by a community mental health center; or,

(vi) Other person.

(B) If the child is 15 years of age or younger to a facility or person designated by the secretary; or,

(C) If the child is 16 or 17 years of age if the child has no identifiable parental or family resources or shows signs of physical, mental, emotional or sexual abuse, to a facility or person designated by the secretary.

(3) If, after delivery of the child to a shelter facility, the person in charge of the shelter facility at that time and the law enforcement officer determine that the child will not remain in the shelter facility and if the child is presently alleged, but not yet adjudicated, to be a child in need of care solely pursuant to K.S.A. 38-2202, and amendments thereto, the law enforcement officer shall deliver the child to a secure facility, designated by the court, where the child shall be detained for not more than 24 hours, excluding Saturdays, Sundays, legal holidays, and days on which the office of the clerk of the court is not accessible.

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(4) No child taken into custody pursuant to this code shall be placed in a secured facility, except as authorized by this section and by K.S.A. 38-2242, 38-2243 and 38-2260, and amendments thereto.

(5) It shall be the duty of the law enforcement officer to furnish to the county or district attorney, without unnecessary delay, all the information in the possession of the officer pertaining to the child, the child's parents or other persons interested in or likely to be interested in the child and all other facts and circumstances which caused the child to be taken into custody.

(b) (1) When any law enforcement officer takes into custody any child as provided in K.S.A. 38-2231(b)(2), and amendments thereto, proceedings shall be initiated in accordance with the provisions of the interstate compact on juveniles, K.S.A. 38-1001 et seq., and amendments thereto, or K.S.A. 38-1008, and amendments thereto, when effective. Any child taken into custody pursuant to the interstate compact on juveniles may be detained in a juvenile detention facility or other secure facility.

(2) When any law enforcement officer takes into custody any child as provided in K.S.A. 38-2231(b)(3), and amendments thereto, the law enforcement officer shall place the child in protective custody and may deliver the child to a staff secure facility. The law enforcement officer shall contact the department for children and families to begin an assessment to determine safety, placement and treatment needs for the child. Such child shall not be placed in a juvenile detention facility or other secure facility, except as authorized by this section and by K.S.A. 38-2242, 38-2243 and 38-2260, and amendments thereto.

(3) when any law enforcement officer takes custody of any child as provided in K.S.A. 38-2231(b)(4), and amendments thereto, the law enforcement officer shall place the child in protective custody and may deliver the child to a juvenile crisis intervention center after written authorization by a community mental health center. Such child shall not be placed in a juvenile detention facility or other secure facility.

(c) Whenever a child under the age of 18 years is taken into custody by a law enforcement officer without a court order and is thereafter placed as authorized by subsection (a), the facility or person shall, upon written application of the law enforcement officer, have physical custody and provide care and supervision for the child. The application shall state:

(1) The name and address of the child, if known;

(2) The names and addresses of the child's parents or nearest relatives and persons with whom the child has been residing, if known; and

(3) The officer's belief that the child is a child in need of care and that there are reasonable grounds to believe that the circumstances or condition of the child is such that

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the child would be harmed unless placed in the immediate custody of the shelter facility or other person.

(d) A copy of the application shall be furnished by the facility or person receiving the child to the county or district attorney without unnecessary delay.

(e) The shelter facility or other person designated by the court who has custody of the child pursuant to this section shall discharge the child not later than 72 hours following admission, excluding Saturdays, Sundays, legal holidays, and days on which the office of the clerk of the court is not accessible, unless a court has entered an order pertaining to temporary custody or release.

(f) In absence of a court order to the contrary, the county or district attorney or the placing law enforcement agency shall have the authority to direct the release of the child at any time.

(g) When any law enforcement officer takes into custody any child as provided in K.S.A. 38-2231(d), and amendments thereto, the child shall be promptly delivered to the school in which the child is enrolled, any location designated by the school in which the child is enrolled or the child's parent or other custodian.

#### Investigations for child abuse or neglect – K.S.A. 38-2226

(a) *Investigation for child abuse or neglect.* The secretary and law enforcement officers shall have the duty to receive and investigate reports of child abuse or neglect for the purpose of determining whether the report is valid and whether action is required to protect a child. Any person or agency which maintains records relating to the involved child which are relevant to any investigation conducted by the secretary or law enforcement agency under this code shall provide the secretary or law enforcement agency with the necessary records to assist in investigations. In order to provide such records, the person or agency maintaining the records shall receive from the secretary or law enforcement: (1) A written request for information; and (2) a written notice that the investigation is being conducted by the secretary or law enforcement. If the secretary and such officers determine that no action is necessary to protect the child but that a criminal prosecution should be considered, such law enforcement officers shall make a report of the case to the appropriate law enforcement agency.

(b) *Joint investigations.* When a report of child abuse or neglect indicates: (1) That there is serious physical harm to, serious deterioration of or sexual abuse of the child; and (2) that action may be required to protect the child, the investigation shall be conducted as a joint effort between the secretary and the appropriate law enforcement agency or agencies, with a free exchange of information between them pursuant to [K.S.A. 38-2210](#), and amendments thereto. If a statement of a suspect is obtained by either agency, a copy of the statement shall be provided to the other.

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(c) *Investigation of certain cases.* Suspected child abuse or neglect which occurs in an institution operated by the Kansas department of corrections shall be investigated by the attorney general or secretary of corrections. Any suspected child abuse or neglect in an institution operated by the Kansas department for aging and disability services, or by persons employed by the Kansas department for aging and disability services or the Kansas department for children and families, or of children of persons employed by either department, shall be investigated by the appropriate law enforcement agency.

(d) *Coordination of investigations by county or district attorney.* If a dispute develops between agencies investigating a reported case of child abuse or neglect, the appropriate county or district attorney shall take charge of, direct and coordinate the investigation.

(e) *Investigations concerning certain facilities.* Any investigation involving a facility subject to licensing or regulation by the secretary of health and environment shall be promptly reported to the state secretary of health and environment.

(f) *Cooperation between agencies.* Law enforcement agencies and the secretary shall assist each other in taking action which is necessary to protect a child regardless of which agency conducted the initial investigation.

(g) *Cooperation between school personnel and investigative agencies.* (1) Educational institutions, the secretary and law enforcement agencies shall cooperate with each other in the investigation of reports of suspected child abuse or neglect. The secretary and law enforcement agencies shall have access to a child in a setting designated by school personnel on the premises of an educational institution. Attendance at an interview conducted on such premises shall be at the discretion of the agency conducting the interview, giving consideration to the best interests of the child. To the extent that safety and practical considerations allow, law enforcement officers on such premises for the purpose of investigating a report of suspected child abuse or neglect shall not be in uniform.

(2) The secretary or a law enforcement officer may request the presence of school personnel during an interview if the secretary or officer determines that the presence of such person might provide comfort to the child or facilitate the investigation.

(h) *Visual observation required.* As part of any investigation conducted pursuant to this section, the secretary, or the secretary's designee, or the law enforcement agency, or such agency's designee, that is conducting the investigation shall visually observe the child who is the alleged victim of abuse or neglect. In the case of a joint investigation conducted pursuant to subsection (b), the secretary and the investigating law enforcement agency, or the designees of the secretary and such agency, shall both visually observe the child who is the alleged victim of abuse or neglect. All investigation reports shall include the date, time and location of any visual observation of a child that is required by this subsection.

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