

Kansas Department of

Social and Rehabilitation Services

Janet Schalansky, Secretary

Senate Judiciary
February 6, 2003

SB 67 - Open records in the event of a child fatality

Integrated Service Delivery
Janet Schalansky, Secretary



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Senator Vratil and members of the Committee, I am Janet Schalansky, Secretary of Social and Rehabilitation Services.

The federal Child Abuse Prevention and Treatment Act (CAPTA) at 42 USC 5106a(b)(A)(vi) was amended in 1996 to require states to have a process which allowed disclosure in cases of child abuse or neglect which resulted in a child fatality or near fatality. In Kansas that process is found in K.S.A. 38-1507. In 1997 subsection (h) was added to provide, "Nothing in this section shall be interpreted to prohibit a court of competent jurisdiction from making an order disclosing the findings or information pursuant to a report of alleged or suspected child abuse or neglect which has resulted in a child fatality or near fatality if the court determines such disclosure is necessary to a legitimate state purpose. In making such order the court shall give due consideration to the privacy of the child, if living, or the child's siblings, parents or guardians."

An in depth review of every child death is critically important if we are to learn what we need to know to prevent all preventable deaths. We have an absolute duty to safeguard the lives and health of all Kansas children. In 1992 this body established the Child Death Review Board (K.S.A. 22a-241 et seq.) This multi-agency, multi-disciplinary board meets monthly under the auspices of the Attorney General to examine the circumstances surrounding the deaths of Kansas children. Members bring a wide variety of experience and perspectives on children's health, safety and maltreatment to bear on their goals of identifying patterns and risk factors, improve data and communication on the issue of child deaths and develop prevention strategies. The Board issues a public report to the legislature every year and provides immediate feedback to SRS, law enforcement, prosecutors, KDHE, coroners, etc as appropriate to improve services or safeguard living children. The Board does not release information which would identify individuals and is not immediately involved in death scene investigations.

Should you choose to proceed with this bill, I would recommend using language consistent with CAPTA as "near fatality" has a definition that may not be applicable to "life threatening injuries." It would be desirable to clarify whether

“as a result of child abuse or neglect” means alleged, suspected, as determined by agency finding, adjudicated or criminally convicted.

Additionally, I would ask that you consider exceptions when disclosure might:

- jeopardize an ongoing criminal investigation or prosecution; or
- either harm or invade the privacy of the child, if living, or the child’s siblings, parents or guardians, or other individuals unrelated to the child’s fatality or near fatality.

SRS is not opposed to more openness and it is not the privacy of SRS that is at stake. The impact of this bill on the privacy of the child and family must be considered. We can not protect children in isolation but are dependent upon the support of the communities we serve. Openness will enhance understanding of the challenges and complexities of child protection, foster care and adoption. We also believe that openness tends to increase efficiency and accountability for all branches of government. The challenge is to carefully balance openness with the privacy of those individuals involved in a child welfare case.

Thank you and I will stand for questions.