

Kansas Department of

# **Social and Rehabilitation Services**

Janet Schalansky, Secretary

**House Corrections and Juvenile Justice**  
March 17, 2003

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

**Integrated Service Delivery**  
Candy Shively, Deputy Secretary

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Representative Loyd and members of the Committee, I am Candy Shively, Deputy 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.

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.

We have prepared a balloon with suggested amendments for your consideration. These amendments address the issue of openness and privacy :

- Provide law enforcement, prosecutors or courts the discretion to limit disclosure when necessary to protect a pending criminal investigation, to avoid prosecution, or to protect the privacy of vulnerable individuals
- Include provisions allowing public access to adoption records and reports
- Identify the courts as the final arbiter when determining if records should be released.

We have worked with the bill's author, Senator Adkins, and believe he is in agreement with the concepts if not the exact language contained in the balloon.

Thank you and I will stand for questions.