

State of Kansas Child Death Review Legislation

Kansas Statute § 22a-241 (1992)

22a-241. Definitions. As used in K.S.A. 22a-241 through 22a-244, and amendments thereto:

- (a) "Child" means a person less than 18 years of age.
- (b) "Pathologist" means a forensic pathologist, if available. Otherwise, "pathologist" means a physician licensed to practice medicine and surgery and qualified to conduct an autopsy.
- (c) "State review board" means the state child death review board established by K.S.A. 22a-243.
- (d) "Suspicious circumstances" includes, but is not limited to, abuse or neglect.

History: L. 1992, ch. 312, § 31; July 1.

22a-242. Child death, notification of coroner; autopsy; notification of state review board; notification of parent or guardian; SIDS death; fee for autopsy.

(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 non-suspicious child death form.

(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.

(e) A coroner shall not make a determination that the death of a child less than one year of age was caused by sudden 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 moneys available therefor from appropriations to the department of health and environment. The reasonableness of all claims for payment of a fee for an autopsy under this section shall be determined by the secretary of health and environment.

History: L. 1992, ch. 312, § 32; L. 1994, ch. 279, § 27; July 1.

22a-243. State child death review board; executive director; development of protocol; annual report; confidentiality of records; rules and regulations.

- (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 of social and rehabilitation services, the secretary of health and environment and the commissioner of education;
 - (2) three members appointed by the state board of healing arts, one of whom shall be a district coroner and two of whom shall be physicians licensed to practice medicine and surgery, one specializing in pathology and the other specializing in pediatrics;
 - (3) one person appointed by the attorney general to represent advocacy groups which 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) 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.
- (f) 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) Members of the state review board shall not 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.
- (h) 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) 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) 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 such information and records may be disclosed to any member of the legislature or any legislative committee which has legislative responsibility of the enabling or appropriating legislation, carrying out such member's or committee's official functions. The legislative committee, in accordance with K.S.A. 75-4319 and amendments thereto, shall recess for a closed or executive meeting to receive and discuss information received by the committee pursuant to this subsection.

(k) 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.

History: L. 1992, ch. 312, § 33; L. 1994, ch. 279, § 28; July 1.

22a-244. Same; activation of board to investigate; access to records; subpoena power; report issued; disclosure of conclusions.

(a) Within 72 hours after receipt of notification from a coroner pursuant to K.S.A. 22a-242, 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 department of social and rehabilitation services or any other social service agency which 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.