

**Kansas Department for Children and Families
Notice of Public Hearing on Proposed Administrative Regulations**

December 06, 2024

A public hearing will be conducted on Friday, December 06, 2024, at 10:00 a.m. in Room 1033 of the Department for Children and Families Administration Building, 555 S. Kansas Ave., Topeka, Kansas to consider the adoption of amendments to regulations related to child abuse and neglect.

This 60-day notice of the public hearing shall constitute a public comment period for the purpose of receiving written public comments on the proposed rules and regulations. All interested parties may submit written comments prior to the hearing to Vivien Olsen at Vivien.Olsen@ks.gov. All interested parties will be given a reasonable opportunity to present their views orally regarding the adoption of the proposed regulations during the public hearing. In order to provide all parties an opportunity to present their views, it may be necessary to request that each participant limit any oral presentation to five minutes.

Any individual with a disability may request an accommodation in order to participate in the public hearing and may request the proposed regulations and economic impact statement in an accessible format. Requests for accommodation to participate in the hearing should be made at least five working days in advance of the hearing by contacting Jenalea Randall at (785) 296-8467.

Copies of the proposed regulations and economic impact statement can be viewed at the following links:
Proposed regulations:

- https://dcfauth.dcf.ks.gov/services/PPS/Documents/Proposed_Regulations.pdf

Economic impact statement:

- https://www.dcf.ks.gov/services/PPS/Documents/Economic_Impact_Statement.docx

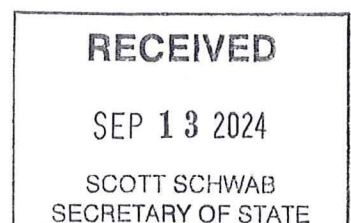
Summaries of the proposed regulations follow:

30-46-10 removes the definition of "affirmed perpetrator" from definitions of abuse and amends the definition of "neglect" as those definitions relate to the child abuse and neglect central registry.

30-46-13 removes language concerning affirmed finding of abuse or neglect.

30-46-15 removes language concerning affirmed finding of abuse or neglect.

Economic impact



Proposed

There is no associated cost or economic impact with these amendments.

Laura Howard
Secretary, Kansas Department for Children and Families

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30-46-10. Definitions. For the purpose of the child abuse and neglect central registry, the following definitions shall apply:

(a) "Abandon" and "abandonment" have the meaning specified in K.S.A. 38-2202, and amendments thereto.

(b) "Abuse" means "physical, mental or emotional abuse" or "sexual abuse," as these two terms are defined in K.S.A. 38-2202, and amendments thereto, and as "sexual abuse" is further defined in this regulation, involving a child who resides in Kansas or is found in Kansas, regardless of where the act occurred. The term "abuse" shall include any act that occurred in Kansas, regardless of where the child is found or resides. The term "abuse" may include the following:

(1) Terrorizing a child, by creating a climate of fear or engaging in violent or threatening behavior toward the child or toward others in the child's presence that demonstrates a flagrant disregard for the child;

(2) emotionally abandoning a child, by being psychologically unavailable to the child, demonstrating no attachment to the child, or failing to provide adequate nurturance of the child; and

(3) corrupting a child, by teaching or rewarding the child for unlawful, antisocial, or sexually mature behavior.

~~(c) "Affirmed perpetrator" means a person who has been determined by the secretary or the secretary's designee, by a preponderance of evidence, to have committed an act of abuse or neglect, regardless of where the person resides, but has not been substantiated so the affirmed perpetrator's name is not placed on the child abuse and neglect central registry.~~

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30-46-10 (2)

~~(d)~~(c) "Alleged perpetrator" means the person identified in the initial report or during the investigation as the person suspected of perpetrating an act of abuse or neglect.

~~(e)~~(d) "Child" means anyone under the age of 18 or anyone under the age of 21 and in the custody of the secretary pursuant to K.S.A. 38-2255, and amendments thereto.

~~(f)~~(e) "Child abuse and neglect central registry" means the list of names for individuals identified by the department as substantiated perpetrators.

~~(g)~~(f) "Child care facility" has the meaning specified in K.S.A. 65-503, and amendments thereto.

~~(h)~~(g) "Department" means Kansas department for children and families.

~~(i)~~(h) "Investigation" means the gathering and assessing of information to determine if a child has been harmed, as defined in K.S.A. 38-2202, and amendments thereto, as the result of abuse or neglect, to identify the individual or individuals responsible, and to determine if the incident perpetrated by the individual or individuals should be ~~affirmed or~~ substantiated.

~~(j)~~(i) "Neglect" has the meaning specified in K.S.A. 38-2202, and amendments thereto, involving a child who resides in Kansas or is found in Kansas, regardless of where the act or failure to act occurred. ~~The term "neglect" may include the following:~~

~~(1) The birth of an infant who is identified as being affected by or having withdrawal symptoms resulting from prenatal exposure to a legal or an illegal substance; and~~

~~(2) failure of the parent or caregiver to meet that individual's responsibilities to provide for the child's education as required by law.~~

~~(k)~~(j) "Sexual abuse" has the meaning specified in K.S.A. 38-2202, and amendments thereto. With respect to the determination by the department for children and families of an

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30-46-10 (3)

~~affirmed or~~ a substantiated finding of sexual abuse, difference in age and maturity between the perpetrator and victim and issues of force or coercion may be considered.

(~~h~~)(k) "Substantiated perpetrator" and "perpetrator" mean a person, regardless of where the person resides, who has been substantiated by the secretary or the secretary's designee, by a preponderance of evidence, to have either intentionally committed an act of abuse or neglect or failed or refused to protect a child when a reasonable person would have anticipated that the act of abuse or neglect would result in or create a likelihood of serious harm, injury, or deterioration to the child. The substantiated perpetrator's name is placed on the Kansas child abuse and neglect central registry, and the person is thereby prohibited from residing, working, or volunteering in a child care facility pursuant to K.S.A. 65-516, and amendments thereto.

(~~m~~)(l) "Unsubstantiated alleged perpetrator" means a person who has been determined by the secretary or the secretary's designee, by a preponderance of evidence, to have not committed an alleged act of abuse or neglect. (Authorized by K.S.A. ~~2018~~ 2023 Supp. 38-2225 and 39-708c; implementing K.S.A. ~~2018~~ 2023 Supp. 38-2226 and K.S.A. 38-2230; effective Jan. 2, 1989; amended Jan. 2, 1990; amended Oct. 1, 1993; amended Jan. 1, 1997; amended Oct. 3, 1997; amended July 9, 2004; amended July 6, 2009; amended, T-30-6-1-12, June 1, 2012; amended Sept. 14, 2012; amended July 1, 2016; amended, T-30-11-15-18; Nov. 15, 2018; amended Feb. 22, 2019; amended P-_____.)

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30-46-13. Right to interview. Each alleged perpetrator shall have an opportunity to be interviewed before a finding ~~affirming~~ or substantiating the perpetrator under K.A.R. 30-46-15 is issued. (Authorized by K.S.A. ~~2018 Supp.~~ 39-708c; implementing K.S.A. ~~2018~~ 2023 Supp. 38-2226, K.S.A. ~~2018 Supp.~~ 39-708c, and K.S.A. 2023 Supp. 65-516, as amended by L., 2024, ch. 15, sec. 45; effective Jan. 2, 1989; amended Oct. 28, 1991; amended July 1, 1997; amended July 9, 2004; amended, T-30-11-15-18; Nov. 15, 2018; amended Feb. 22, 2019; amended P-_____.)

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30-46-15. Notice of decision. ~~(a) Each affirmed perpetrator shall be notified in writing of the secretary's decision to affirm the perpetrator for an incident of child abuse or neglect. The notice shall specify the reasons for the finding and shall inform the affirmed perpetrator of the perpetrator's right to appeal the decision.~~

~~(b)~~(a) Each substantiated perpetrator shall be notified in writing of the secretary's decision to substantiate the perpetrator for the purpose of placing the name of the perpetrator in the child abuse and neglect central registry. The notice shall specify the reasons for the finding and shall inform the substantiated perpetrator of the perpetrator's right to appeal the decision.

~~(c)~~(b) Each unsubstantiated alleged perpetrator shall be notified in writing of the secretary's decision that based on a preponderance of evidence, the alleged perpetrator has not committed an alleged act of abuse or neglect. (Authorized by K.S.A. ~~2018 Supp.~~ 39-708c; implementing K.S.A. ~~2018~~ 2023 Supp. 38-2226, K.S.A. ~~2018 Supp.~~ 39-708c, and K.S.A. 2023 Supp. 65-516, as amended by L., 2024, ch. 15, sec. 45; effective Jan. 2, 1989; amended Oct. 28, 1991; amended July 1, 1997; amended July 9, 2004; amended, T-30-11-15-18; Nov. 15, 2018; amended Feb. 22, 2019; amended P-_____.)

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Kansas Administrative Regulations Economic Impact Statement (EIS)

Department for Children and Families
Agency

Beth Lange
Agency Contact

785.338.1103
Contact Phone Number

30-46-10, 30-46-13, 30-46-15
K.A.R. Number(s)

Permanent Temporary

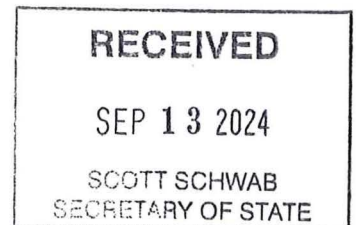
Is/Are the proposed rule(s) and regulation(s) mandated by the federal government as a requirement for participating in or implementing a federally subsidized or assisted program?

Yes If yes, continue to fill out the remaining form to be included with the regulation packet submitted in the review process to the Department of Administration and the Attorney General. Budget approval is not required; however, the Division of the Budget will require submission of a copy of the EIS at the end of the review process.

No If no, do the total annual implementation and compliance costs for the proposed rule(s) and regulation(s), calculated from the effective date of the rule(s) and regulation(s), exceed \$1.0 million or more in implementation and compliance costs that are reasonably expected to be incurred by or passed along to businesses, local governmental units and individuals as a result of the proposed rule and regulation over the initial five-year period following adoption of such rule(s) and regulation(s) (as calculated in Section III, F)?

Yes If "Yes," then the agency shall not adopt the rule(s) and regulation(s) until the rule(s) and regulation(s) has been ratified by the Legislature with a bill, unless the proposed rule(s) and regulation(s) are: 1) mandated by the federal government as a requirement for participating in or implementing a federally subsidized or assisted program, as described in K.S.A. 77-416(b)(1)(B), and amendments thereto; 2) temporary rule(s) and regulation(s) adopted pursuant to K.S.A. 77-722, and amendments thereto; or 3) rules and regulations adopted pursuant to K.S.A. 2-3710 (Kansas Agricultural Remediation Board). Continue to fill out the remaining EIS form to be included with the regulation packet in the review process to the Department of Administration and the Attorney General. The submitted EIS will be independently analyzed by the Division of the Budget for approval.

No If no, continue to fill out the remaining form to be included with the regulation packet submitted in the review process to the Department of Administration and the Attorney General. The submitted EIS will be analyzed by the Division of the Budget for approval.



Section I

Analysis, brief description, and cost and benefit quantification of the proposed rule(s) and regulation(s). If the approach chosen by the Kansas agency to address the policy issue is different from that utilized by agencies of contiguous states or of the federal government, the economic impact statement shall include an explanation of why the Kansas agency's rule and regulation differs.

DCF is removing "affirmed" from allowable findings in abuse investigations. Currently, allowable findings in abuse investigations are "affirmed", "substantiated" and "unsubstantiated." Only a "substantiated" finding will result in a perpetrator's name being placed on the Kansas child abuse and neglect central registry and only then after exhaustion of legal remedies. There is no cost related to this change.

Section II

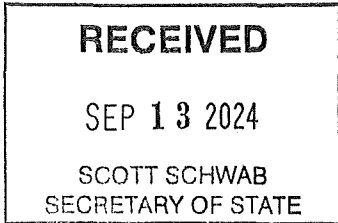
Explain whether the proposed rule and regulation is mandated by federal law as a requirement for participating in or implementing a federally subsidized or assisted program and whether the proposed rules and regulations exceed the requirements of applicable federal law.

DCF is required by both federal and state law to investigate allegations of child abuse. This change does not exceed applicable federal law.

Section III

Agency analysis specifically addressing the following:

- A. The extent to which the rule(s) and regulation(s) will enhance or restrict business activities and growth;
No effect
- B. The economic effect, including a detailed quantification of implementation and compliance costs, on the specific businesses, sectors, public utility ratepayers, individuals, and local governments that will be affected by the proposed rule(s) and regulation(s) and on the state economy as a whole;
No effect
- C. Businesses that would be directly affected by the proposed rule(s) and regulation(s);
N/A
- D. Benefits of the proposed rule(s) and regulation(s) compared to the costs;
N/A



- E. Measures taken by the agency to minimize the cost and impact of the proposed rule(s) and regulation(s) on business and economic development within the State of Kansas, local government, and individuals;

N/A

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F. An estimate of the total annual implementation and compliance costs that are reasonably expected to be incurred by or passed along to businesses, local governments, or individuals. *Note: Do not account for any actual or estimated cost savings that may be realized. Implementation and compliance costs determined shall be those additional costs reasonably expected to be incurred and shall be separately identified for the affected businesses, local governmental units, and individuals.*

Total Annual Costs – \$No Costs
(sum of above amounts)

Give a detailed statement of the data and methodology used in estimating the above cost estimate.

- Yes If the total implementation and compliance costs exceed \$1.0 million or more in implementation and compliance costs over the initial five-year period following adoption of such rule(s) and regulation(s) that are reasonably expected to be incurred by or passed along to businesses, local governmental units and individuals as a result of the proposed rule and regulation, did the agency hold a public hearing to find that the estimated costs have been accurately determined and are necessary for achieving legislative intent? If applicable, document when the public hearing was held, those in attendance, and any pertinent information from the hearing.
- No
- Not Applicable

Provide an estimate to any changes in aggregate state revenues and expenditures for the implementation of the proposed rule(s) and regulation(s), for both the current fiscal year and next fiscal year.

No changes to current expenditures.

Provide an estimate of any immediate or long-range economic impact of the proposed rule(s) and regulation(s) on any individual(s), small employers, and the general public. If no dollar estimate can be given for any individual(s), small employers, and the general public, give specific reasons why no estimate is possible.

N/A

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- G. If the proposed rule(s) and regulation(s) increases or decreases revenues of cities, counties or school districts, or imposes functions or responsibilities on cities, counties or school districts that will increase expenditures or fiscal liability, describe how the state agency consulted with the League of Kansas Municipalities, Kansas Association of Counties, and/or the Kansas Association of School Boards.

The rules and regulations do not increase or decrease revenues of cities, counties or school districts nor do they impose functions or responsibilities on cities, counties or school districts that will increase expenditures or fiscal liability

- H. Describe how the agency consulted and solicited information from businesses, business associations, local governmental units, state agencies, or institutions and members of the public that may be affected by the proposed rule(s) and regulation(s) or may provide relevant information.

N/A

Section IV

Does the Economic Impact Statement involve any environmental rule(s) and regulation(s)?

- Yes If yes, complete the remainder of Section IV.
 No If no, skip the remainder of Section IV.

- A. Describe the capital and annual costs of compliance with the proposed rule(s) and regulation(s), and the individuals or entities who would bear the costs.
- B. Describe the initial and annual costs of implementing and enforcing the proposed rule(s) and regulation(s), including the estimated amount of paperwork, and the state agencies, other governmental agencies, or other individuals who will bear the costs.
- C. Describe the costs that would likely accrue if the proposed rule(s) and regulation(s) are not adopted, the individuals or entities who will bear the costs and who will be affected by the failure to adopt the rule(s) and regulation(s).
- D. Provide a detailed statement of the data and methodology used in estimating the costs used.

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